TELOS

NUMBER 130 SPRING 2005

BACK TO THEORY?

Marx as a Republican Writer
Charles Barbour and Thomas Kemple

From Habermas to Foucault
Konstantinos Kavoulakos

Habermas, Foucault, and the Possibility of Critique
Ejvind Hansen

Foucault on Education
Roger Deacon

Deleuze on Law and Jurisprudence
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Adorno and Fritz Lang
Detlev Claussen

Notes on Film
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Introduction

Marx's famous complaint that philosophers only interpret the world without ever getting around to the real point of it all, which is, of course, "to change it," probably never changed a thing. In any case, it is certainly an old story. Activism has always been impatient with theory, the *vita activa* sneers at the monkish indolence of *vita contemplative*, and no one really does anything about the weather. Is interpretation therefore fruitless and criticism mere chatter? Every undergraduate humanities major has heard as much from rightfully worried parents: enjoy the *Weltschmerz*, but what are you going to do for a living? Of course, the empire of philosophy and scholarship can strike back and denounce the question as just so much venal utilitarianism. This defensiveness however would miss the point and, in fact, only confirm the bare opposition between thinking and doing. It is in contrast more appropriate to question the terms of the opposition itself, for surely thinking is hardly inconsequential, nor is doing necessarily devoid of thought (no matter how much thoughtlessness abounds). Neither side of the inequation is pristine because neither is singular: any interpretation competes with other interpretations, while that imagined one, great big deed, action as such, in fact collides inescapably with the deeds of many, and these two terrains, thought and action, intersect each other in multiple ways. Because history and politics have reemerged, despite premature notices of their demise — discussed in the previous issue of *Telos* — theory too returns, or the question of theory and practice in a conflicted world.

Critical Theory, in its various mid-twentieth century formations, worried about the stultifying imposition of abstract uniformity onto the rich potential of human life. Marx's critique of alienation in the political economy of capitalism, as articulated in his most philosophical period of the *1844 Manuscripts*, but not "rediscovered" until the 1930s, was eventually turned back against the reified Marxism of Soviet orthodoxy: history is not the playing out of rigid laws, and social existence never merely a deterministic consequence of underlying structures. For the Frankfurt

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School — but for other thinkers as well, such as Friedrich von Hayek — deterministic thinking, that in various ways undercut the potential for individual distinction, made its way from the totalitarian formations of Nazi Germany and Stalinist Russia into the democratic West as well. In other words, the terms of the critique of Bolshevik bureaucracy migrated and metamorphosed into a critique of an ossifying West. Nor did Adorno fully escape the legacies of determinism, as has been made amply clear in the pages of this journal over the years. Not even the critique of reification is immune to reification. This verdict holds all the more for the world of theory that has set up camp in the vanity fair of the academy, giddily celebrating its own "subversive" self-understanding, while sealing itself off in a hermetic sphere protected from experience. Theory became utopian in the sense of a coherent, dogmatic, and self-enclosed mentality, precluding substantive difference. Politicized theory seems bizarrely out of touch with politics (except in the sense of the political networking of mutual citation societies and subsidized university press life). No wonder then that the academic caste ends up so confused by the developments beyond the walls of the academy. Its theory does seem solely theoretical, without much consequence, approximating life only in Macbeth's sense of signifying nothing.

The delusions of homogenized theory begin to fade away with the recognition of multiplicity and heterogeneity: different voices, different lives. Charles Barbour and Thomas Kemple make this abundantly clear, turning received opinion in academic Marxism on its head. At stake is a reading of *The German Ideology*, characteristically viewed as the transition to maturity in the *Bildungsroman* that Stalinists and Althusserians tell about Marx: he overcomes his youthful philosophy and enters the adult world of economic determinism. Yet Barbour and Kemple lead us into the rarely read second section on "the Leipzig Council," and they make a strong case that the text should be read as performance rather than simply as statements. Rhetoric trumps semantics, and it is a rhetoric of dissonance. Marx and Engels (and even Marx against Engels) enact a republican language of conflict. This prefigures the *Manifesto*'s "All history is the history of class struggle," but with a shift of emphasis from "class" to "struggle." Theory and practice become the site of never-ending *agon* , perpetual conflict. Eliminationist visions — overcoming theory, ending philosophy, superseding the state and so forth — are another matter altogether, at odds with this Heraclitean energy at the center of the critical project.

The four following essays explore the problematic vicissitudes of a

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critical social theory. Kavoulakos reexamines the overarching generational conflict within the Frankfurt School, between Horkheimer's materialism and Habermas' theory of communicative action. If the move to language seemed to unburden theory of deterministic baggage, it also led to an occlusion of material circumstance. While much remains unresolved in Horkheimer's account, Kavoulakos shows its advantages over Habermas, particularly with regard to the theorization of individual happiness and freedom. Hansen takes on Habermas as well, but now from a Foucaultian perspective: the constant critical-theoretical concern regarding structuralism and post-structuralism and its apparent inability to think freedom, i.e., to engage in critique. At first glance, in other words, Habermas' position seems to have shifted: from the cautious liberal when measured against Horkheimer to the aggressive critic in competition with the power-obsessed Foucault. Deacon takes the anatomy of Foucault one step further by reconstructing a theory of education. On the one hand, Foucault does not provide a comprehensive account of educational institutions (as he did for the clinic and the prison); on the other, the educational system is a particularly loaded target, the most prominent carrier of the mission to cultivate subjectivity. Deacon is able to piece together a description of the emergence of education as a disciplinary apparatus in the early modern era: precisely not a vehicle to nurture free and autonomous individuals but to control, train, and regulate: automatons instead of autonomy. The nightmare of ineluctable determinism seems to return repeatedly. Foucault, so it appears, does not have a notion of "freedom." Is that a problem? Lefebvre pursues a homologous question through an examination of a different institution as viewed by a different theoretician: Deleuze on the law. While various modes of legality (moral law, natural law, and juridical laws) are treated as tending toward dogmatic closure — and therefore reminiscent of the problems of ideology and determinism, foreclosing human possibility — Lefebvre describes Deleuze's effort to define jurisprudence and the archive of cases, i.e., precedent, history, and empirical experience, as a domain of freedom. Freedom adheres to the experiential domain of lived life, the *Lebenswelt* of concrete relationships and particular identities, rather than in the comprehensive or austerely systematic ideologies, no matter how rational.

In the previous issue of *Telos*, Küntzel elaborated on the role of Nazi foreign policy and propaganda in the formation of Arab anti-Semitism. While his work is primarily historiographical and documentary, it describes the process of a strident ideological formation, a case in point

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of the inquiries into the origins of ideology which the more theoretical essays address. His contribution to this issue is a smaller companion piece. The "Roots of Delusion" describes the manipulative formulation of an anachronistic anti-modernism in Palestine. The predisposition in much of the West to side with an anti-modernism inimical to Western life-style should be taken as a starting point for a critical analysis of contemporary culture: why has anti-Semitic terror in the Middle East elicited so much sympathy in the West and, if not sympathy, so much disregard? At stake then is one of the major ideological pathologies of the twentieth century.

This issue concludes with three contributions on aesthetic matters. Claussen explores the rich and perhaps surprising friendship between Adorno and Fritz Lang. Received opinion in academic circles has it that Adorno was hopelessly out of touch with popular culture, an irredeemably German high-culture-vulture, and a dyed-in-the-wool cinema hater. All of that, it turns out, is just plain wrong. The author of *Philosophy of the New Music* and the director of *Metropolis* became good friends in their California exile, and the friendship continued in post-war Germany. Claussen draws the conclusion that the right way to read the notorious chapter on the "Culture Industry" in the *Dialectic of Enlightenment* is not as a denunciation of film but rather as a very specific analysis of film production in the last years of the old studio system. Moreover, Claussen documents Adorno's fascination with Charlie Chaplin and preserves the German director Alexander Kluge's gem of a comment that the only thing that really bothered Adorno about movies was "the picture," i.e., the implied realist epistemology of representation. But how can film go beyond realism?

Eiland provides some compelling answers to this Adornian question in his notes on films, old and new. He follows Adorno's pursuit of allegory in the midst of realism — like the search for freedom in a deterministic world — into the cinema. It is however allegory compounded by the problem of aura which, *pace* Benjamin, apparently does not at all wither away in the age of technical reproduction. The fragmentary character of Eiland's notes foregrounds an element of reception: no film is the final film, and reflection after the film performance is an integral component of the specifically cinematic aesthetic experience. The discussion after the movie is part of the event, in the sense of romantic art criticism: the process of reception is a continuation of the internal logic of the work. In contrast, Shain's fragments have more the character of theses, that Marxian rhetoric of polemic discussed by Barbour and Kemple. These are

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emphatic, nearly pugilistic interventions in the on-going debate over high and low culture. Rare is the work of art that is not held up by today's academic culture and shown to be subversive: it is almost as if the radical academy were in some tacit, subterranean agreement with the cultural neo-conservatives, seeing a dangerously adversarial threat lurking in every subsidized art project. Shain rightly interrogates this constant overstatement, the political hyperbole which is so infrequently warranted. He shows in addition how, despite the radical rhetoric of surpassing the allegedly obsolete distinction between high and low culture, the representative discourse on this topic, one way or another, just lets the old-time prejudices and hierarchies creep back in through the backdoor. The point however is not that art is really tame and inconsequential, but that the radical terminology of subversion and the celebration of a post-hierarchical taste in fact recuperate and stifle more than they emancipate. The prospect of elaborating an art and an art discourse that might measure up to the civic virtue of a free republic — what Barbour and Kemple sought in "the Leipzig Council"— is still on the agenda. Stay tuned.

Russell A. Berman

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Writing the Republic: Politics and Polemics in The German Ideology

Charles Barbour and Thomas M. Kemple

With the significant amount of new attention being paid to the political and theoretical debates of the *Vormärz*[1], the decade prior to the March riots that signaled the beginning of the 1848 revolution in Germany, it is important to keep in mind that, in addition to their roles as political activists and public intellectuals, the left Hegelians were also writers — that is, they were attempting not only to describe social reality, but also to address and convince a reading public. When rereading and reassessing their work, then, it is crucial not to lose sight of the formal and rhetorical articulations of their various claims, and particularly the *polemical form* of so much left Hegelian discourse. Louis Althusser's famous theory of Marx's "epistemological break" with his left Hegelian contemporaries — the displacement of the humanist concept of essence in favor of a discretely "Marxist" theory of the social relation — effectively elides the fact that, with or without Marx, left Hegelian discourse consisted primarily of an overdetermined cluster of breaks and fissures, antagonisms and debates. These polemical struggles not only pitted Marx against his contemporaries, as the Marxist tradition insisted, but also Marx and Engels against Bauer and Stirner, Bauer and Stirner against Feuerbach, Bauer against Stirner, even Marx against Engels. Through such debates, examples of which are countless, the left Hegelians discussed *both* the possibilities *and* the limitations of republican thought. They also performed or enacted one of republicanism's crucial tenets — namely, the notion that the "social bond" is not a fundamental substance waiting to be revealed in

1. Douglas Moggach, ed. *The Left Hegelians: New Philosophical and Literary Perspectives* (Cambridge: Cambridge University Press, 2006).

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some final apocalyptic gesture, as one myopic version of the revolutionary tradition contends, but a formal or symbolic link that is created and continuously recreated anew through ongoing, interminable debates and struggles. That is to say, just as the form of left Hegelian discourse is largely polemical, so too is the form of the republican social bond largely and irreducibly polemical. It is our contention that these two "forms" — one literary, the other political — are inseparable, and that understanding republicanism requires attention be paid to the fictional, symbolic, and perhaps especially polemical elements of republican discourse. Thus, focusing on the polemical elements of *The German Ideology*, this paper interrogates the specifically literary imagination of republican discourse during the *Vormärz*. At the same time, we situate Marx's and Engels's position in relation to contemporary post-Marxist debates, where our reading of *The German Ideology* can be seen to occupy certain tense intersections in-between a variety of current approaches — neither entirely distinct from, nor entirely reducible to, the left Kantian formalism or theory of discourse ethics and the "public sphere" associated with figures like Jürgen Habermas on the one hand,[2] or the more "futural" and historically articulated politics of deconstruction and "democracy to come" associated with Jacques Derrida on the other.[3]

Recent post-Marxist political theory, especially as it has developed in France, and particularly in the work of Claude Lefort, has sought to underscore the inescapably fictional and antagonistic aspects of the republican community. It is argued that, even if only in a hypothetical "last instance" that in fact "never arrives," Marxism in all of its manifestations invariably sought to reduce political struggles and ideological debates to some more basic structure — be it the economy, class identity, the essence of humanity, or simply "material conditions." Picking up on Hannah Arendt's notion of the "political community," and her definition of freedom as something found only in the public life of the politically engaged citizen, Lefort and others have maintained that democracy does not require the elimination or the resolution of conflict, but its "institutionalization." As Lefort puts it, politics and therefore freedom itself require the erection of a "stage" or a *mise en scène* on which ideological subjects might confront one another, not merely in the hopes of achieving

2. Craig Calhoun, ed., *Habermas and the Public Sphere* (Cambridge: MIT Press, 1993).

3. Drucilla Cornell, Michael Rosefeld and David Carlson, eds., *Deconstruction and the Possibility of Justice* (New York: Routledge,1992).

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full consensus and overcoming differences, but in order endlessly to generate new debates and new differences. In recent political thought, this approach to democracy has often been called "dystopic," in that it views democracy, if not as shot through with strife and struggle, then as something never achieved, but always "to come."

Among those engaged in recent debates, however, it has rarely been noted that these same questions and themes had already been addressed during the *Vormärz*, and that so-called "post-Marxist" theory is in this regard a return to or repetition of themes and ideas that were already extensively developed among the left Hegelians. But once again, in order to register the connections between left Hegelian republicanism and contemporary "dystopic" theories of democracy, it would be necessary to highlight the polemical form of so much *Vormärz* discourse. Even authors thought to have worked more or less in tandem (such as Marx and Engels) were in fact involved in heated disputes with one another — debates that editors often homogenize in the attempt to produce the appearance of a coherent argument or consistent position, and that commentators largely ignore as a consequence. It is therefore necessary to examine what often appear to be miniscule differences, shifts and changes that take place even on the level of the manuscript page — treating the texts of this period, not as coherent bodies of work, but as something like a complex mechanical assemblages. In this attention to differences, a more variegated, but also more effective reading of both these classical disputes and contemporary debates begins to emerge.

In this paper we interrogate a number of links between contemporary political philosophy and that of the *Vormärz*. We pay especially close attention to the performative aspect of left Hegelian discourse — the extent to which it seeks not only to represent the world, but also, through the articulation of rhetorically convincing arguments, to change it. Amidst all the discussion of previously lesser known left Hegelian figures today, we remain committed to a certain spirit of Marx. As Derrida argues in *Specters of Marx*, this name still stands for a conception of justice as something that remains incomplete — an unfinished task, a promise of the future, and hence a political responsibility. Following Derrida, we have chosen not to focus on the canonical and familiar works that have been parceled out and glossed by Marxist theorists and editors, but on an elliptical, marginal, and routinely ignored text, namely the colossally difficult and outrageously satirical second section of *The German Ideology* entitled "The Leipzig Council." Especially when considered in view of

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the reception of more canonical works such as the *Communist Manifesto*, *Capital*, or even the familiar arguments of the introductory "Feuerbach" section of this text, the Marx that emerges from reading *The German Ideology* through both contemporary debates and the text's numerous editors and authors is neither a scientist with a seamless argument nor a dogmatist with a rigid position; rather, the Marx that we evoke is a deeply conflicted, fragmented, as well as engaged figure — one who has much to offer current debates, and the contemporary world in which we live and struggle.

1. The New Republicans and the Primacy of the Political

The collapse of official Marxism in the latter part of the 20th century brought with it an explosion of new interest in theories of republicanism. The perennial argument that Marxism provides no consistent theory of the state was rejuvenated, particularly among avant-garde French intellectuals. In place of the Marxist *doxa* that politics and the state are merely indirect expressions of more fundamental class interests, or instruments of class power, there emerged a new concern with republican political institutions, and what many came to call "the political" — "the specificity of the political," "the concept of the political," "the authentically political sphere," and so forth. At the same time, this new focus on institutions seemed to be driven largely if not exclusively by a single, negative project — the critique and the averting of totalitarianism. Put briefly, the argument went as follows: Totalitarianism is a result of an effort to fuse the social and the political or civil society and the state. Democracy requires that these two registers remain distinct, or that any connection between them remain contingent, provisional, and thus open to future contestation. Freedom of speech and regular elections, for example, are the mechanisms by which citizens refashion themselves as contingently and yet variously engaged political subjects. As soon as it is assumed that politics is but a mechanical expression of interests that precede it, and that it is possible to discover the objective basis of political superstructures, freedom itself is jeopardized. Thus, democratic social relations are premised on the vested interest that all political subjects have in maintaining the gap that separates the social from the political. This gap operates as a bulwark against the totalitarian threat, which is not, as so many believed, a perversion of Marx's original doctrine, but a danger inherent in some of his most basic tenets.

The chief proponent of this new republicanism and institutionalism in France has been the political philosopher and Machiavelli scholar Claude

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Lefort. In his work on democracy and political forms, Lefort has argued that freedom is not an essence that political superstructures and ideologies obscure or distort, but a practical relationship that can only be found within politics itself — in the ideological struggles and antagonisms that constitute the political sphere. Democracy is not so much the rule of the people, if by "the people" we mean a common substance shared by all members of a political community, as it is an "institutionalization of conflict." According to Lefort, the pivotal events of the French Revolution, and specifically the death of the king, resulted in the evacuation of the seat of power. In a republic, there is no longer any necessary connection between power and the subject who holds it. On the contrary, "[t]he locus of power is an empty place, it cannot be occupied — it is such that no group and no individual can be consubstantial with it — and it cannot be represented."[4] Similarly, "neither the state, the people nor the nation represent substantial entities." Rather, "[t]heir representation in itself, in its dependence upon political discourse and upon sociological and historical elaboration, is always bound up with ideological debate." For this reason, democracy requires the construction of a stage, an institutional *mise en scène*, on which ideological conflicts might be played out or enacted. And this problem of representation points to the paradox of democratic reason. "The erection of a political stage on which competition can take place shows that division is, in a general way, constitutive of the general unity of society."[5] So the democratic community shares what divides it. It is held together by that which tears it asunder.

Lefort establishes his position in direct opposition to Marxism, and to the French Marxist intellectuals who, he claims, can produce astonishingly sophisticated readings of philosophy or literature or psychoanalysis in their professional careers, but nonetheless revert to the crudest instrumentalism in their political decisions. According to Lefort, Marx misread the impact of the French Revolution. He saw its republican institutions as smokescreens intended to conceal deeper economic contradictions. With the resolution of economic contradictions or class conflict, Marx believed, politics and the state would simply "wither away." Thus, Lefort concludes, Marx did not understand that republican institutions — the legislature, the courts, the military, and so forth — do not represent instrumental expressions of class power, but "a new symbolic constitution of

4. Claude Lefort, *Democracy and Political Theory*, tr. by David Macey (Cambridge: Polity Press, 1988), p. 17.
5. *Ibid.*, p. 18.

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the social."[6] Lefort argues that, because they were committed to a certain model of Enlightenment reason or the project of demystification, Marx and his followers sought to destroy false representations so as to reveal an essential, universal, but heretofore hidden social truth. They therefore failed to recognize that society is equally the effect of symbolic acts — that representation is a prior condition, not just a function of social relations. Thus, in his opposition to Marx and Marxism, Lefort develops two themes: First, antagonism and struggle are constituent of the democratic community; they do not obscure a deeper social reality or reflect a more fundamental, so-called "material" struggle, but are the very shape and constitution of society. Second, the democratic social bond is a symbolic, formal link, not substantial or natural; it is created through symbolic acts, including (and often especially) the elaboration of convincing arguments and rhetorical performances. These two themes have been adopted and developed by any number of post-Marxist intellectuals, both inside and outside of France. Thus Jean-Luc Nancy[7] writes of the "inoperative community" and, along with Philippe Lacoue-Labarthe,[8] proposes a distinction between "politics" and "the political" — the latter referring to an ontological dimension that no specific politics can finally exhaust. Similarly, Ernesto Laclau and Chantal Mouffe[9] transform the Marxist tradition into a defense of republicanism with their elaboration of Gramsci's theory of "hegemony," insisting on the irreducibility of the social antagonism, and calling for a pluralist politics void of all "essentialism." Finally, Jacques Rancière[10] argues that the democratic community is founded on a fundamental "wrong" that is constantly being addressed, but can never finally be redressed. This constituent "wrong" endlessly generates new struggles, meaning that democratic politics cannot amount to managing consensus and reciprocal exchange, but requires division and strife.

The turn towards republicanism among avant-garde socialist intellectuals tends to be constructed in opposition to Marx and Marxism, but generally on the basis of a very particular (and highly contentious)

6. *Ibid.*, p. 17.

7. Jean-Luc Nancy, *The Inoperative Community*, tr. by Peter Connor, Lisa Garbus, Michael Holland, and Simona Sawhney (Minneapolis: University of Minnesota Press, 1990).

8. Phillippe Lacoue-Labarthe and Jean-Luc Nancy, *Retreating the Political*, ed. by Simon Sparks (New York: Routledge, 1997).

9. Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy* (London: Verso, 1985).

10. Jacques Rancière, *On the Shores of Politics*, tr. by Liz Heron (New York: Verso, 1995).

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interpretation of Marx proposed by Louis Althusser and his students. More accurately, even as Althusser's brand of structural Marxism gets repudiated among poststructuralist thinkers, certain elements of his approach nonetheless remain very influential — they continue to haunt those who seek to reject Althusser. In particular, Althusser's critique of essentialism, his attack on all conceptions of the subject of history, and his effort to separate Marxism from humanism still form crucial elements of poststructuralist thought. Althusser argued for an "epistemological break" detaching Marx's early ideological work from his mature science, and insisted that Marxism was not, as the humanist reading implied, one ideology among many, but a unique "science *of* ideology." The hypothesis of the "break" allowed Althusser to focus on Marx's theory of the "social relation." For Althusser, this pivotal Marxist theory suggests that society is not a dialectical totality organized around the progressive resolution of contradictions, as Hegel maintained, but an overdetermined layering of, in Althusser's words, "specifically effective" and "relatively autonomous" structures and superstructures — a complex "social formation" determined by the economy, but only in an ever retreating "last instance" that in fact "never arrives."[11] Sanguine Marxist assurances about the working class being the subject of history, and a future paradise without ideology, were thus cast aside. Marxists instead began to argue that every subject is an *effect* or a product of concrete ideological apparatuses — churches, schools, families, militaries, prisons, and countless other rituals and practices. At the same time, the hypothesis of the break cut the "mature" Marx off from both his own early work and his left Hegelian contemporaries. Althusser was especially insistent on rejecting the definition of ideology he believed Marx and Engels set out in *The German Ideology*. Although he saw it as the starting point of Marx's break with humanism, Althusser also maintained that, precisely to the extent that it is "polemical" and rhetorical, *The German Ideology* should not be read as a serious expression of Marxist science. Rather it is but a theatrical "stage" on which Marxist science itself "give[s] battle."[12] The same repudiation of *The German Ideology* begins Althusser's celebrated "Ideology and Ideological State Apparatuses." There he claims that, to the extent that it relies on a theory of "false consciousness," the definition of ideology first

11. Louis Althusser, *For Marx*, tr. by Ben Brewster (New York: Pantheon Books, 1969), p. 111.

12. Louis Althusser, *Reading Capital*, tr. by Ben Brewster (London: Verso, 1998), p. 32.

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proposed in *The German Ideology* is "not Marxist."[13] For Althusser, an ideology is not an illusion or a fantasy, but a system of material practices, concrete rituals, and institutional apparatuses.

In part because of the strength and influence of Althusser's thought, the new poststructuralist republicans — even while defining themselves in opposition to Althusser, rejecting his scientism and orthodoxy in the name of the pluralism and institutionalism of postmodern social democracy — generally do not look for resources in Marx's early work, or in that of his left Hegelian contemporaries. And yet precisely what is at stake in the polemics of the *Vormärz*, especially the typically ignored "Leipzig Council" section of *The German Ideology*, is the relationship between socialism and republicanism, and the question of the human essence and social relations. In fact, read closely, the whole of *The German Ideology* might be seen to establish a definition of ideology that is much closer to the one Althusser lays out in "Ideology and Ideological State Apparatuses" than it is to the humanist notion of "false consciousness" he rejects. But these elements of Marx's and Engles's work will only become apparent if we focus on the very features of the text that Althusser isolates as proof of its insignificance — namely the polemical rhetoric. We can put this same point another way. Althusser's concern with the performative dimension of ideology, or the sense in which ideology exists only in rituals and acts, is paradoxically founded upon a certain blindness towards the performative dimension of Marx's and Engels's writing. But with contemporary debates over republicanism in mind, indeed in any consideration of the republican tradition, it is precisely this performative dimension of discourse that looms largest. The republican claim against the socialist model is just this — that there is no substantial social bond unifying "the people"; rather the social bond is the effect of performative utterances or symbolic acts. As much as the community is a logical and ontological construct, it is a rhetorical one as well. This imaginative, literary, or symbolic dimension is exactly what gets suppressed when political discourse is reduced to (accurate or inaccurate) descriptions of social reality — a procedure that, as suggested above, threatens republican and democratic freedom, as it truncates the effectivity of the political sphere.

To understand Marx's relationship with republicanism, and to determine what elements of Marx's thought might continue to inform current

13. Louis Althusser, "Ideology and Ideological State Apparatuses: Notes Toward an Investigation," in *Lenin and Philosophy and Other Essays*, tr. by Ben Brewster (New York: Monthly Review Press, 1971), p. 150.

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political theory and practice, it is crucial that we focus precisely on what Althusser would have us ignore — not the science of ideology, but the politics of language and of literature. Close attention to Marx's polemical texts, and to the contexts in which they were intended to intervene, in fact suggests that Marx and Engels were well aware of, and in many ways anticipated, the republican criticisms of socialism that have reemerged in recent years with respect to the irreducibility of the antagonism and the symbolic status of the social bond. Indeed, reassessed in light of recent research into left Hegelian thought, *The German Ideology* in general, and the long ignored section titled "The Leipzig Council" in particular, appear as Marx's and Engels's initial responses to exactly these kinds of critiques of socialism, especially as they were developed in the work of Bruno Bauer and Max Stirner. This is a case where a return to an earlier, largely ignored debate illuminates a current one, and where it is not so much a question of how we read (or perhaps fail to read) Marx and Engels, but of how they read us.

2. The Old Republicans and the Rhetoric of Political Action

In his *Rhetoric of Motives*, the formalist literary critic and rhetorician Kenneth Burke recounts the story of a young Marxist (possibly himself) who, at a meeting of his comrades, was "soundly rebuked" for suggesting that they pursue a study of "Red Rhetoric," or a discretely socialist approach to persuasive discourse. The young Marxist's comrades associated rhetoric with liberal or fascist "ideology," to which they naturally opposed Marxist "science."[14] Such dogmatic oppositions between science and ideology have, one hopes, since become obsolete, or at least out of fashion. And yet, the Marxist renunciation of rhetoric can still be found among those Marxists who have resisted the "linguistic turn" in contemporary philosophy. This resistance has less to do with the opposition between science and ideology than it does with a certain conception of social relations or the social bond. Despite all of the changes in Marxist and post-Marxist theory, there remains a (sometimes unconscious, unacknowledged, or even disavowed) desire to conceive of the social bond as a substance — a unity or a totality that is distorted or repressed by political discourse and ideological rhetoric. At least since the time of the *Vormärz*, the battle line between republicanism and socialism has generally been drawn across this divide. If socialists tend to conceive of the

14. Kenneth Burke, *A Rhetoric of Motives* (Berkely: University of California Press, 1969), p. 101.

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social bond as a hidden substance, republicans conceive of it as a symbolic form — a unity that must be actively created by politically engaged citizens, and not simply revealed through revolutionary struggle or scientific inquiry. During the *Vormärz* Bruno Bauer and Ludwig Feuerbach disagreed over precisely this opposition. While contemporary arguments between socialists and republicans do not typically note this heritage, Marx and Engels followed the polemics of their time closely, and would have been very familiar with the terms of current republican arguments for the specificity of the political sphere, or the symbolic and agonistic status of the social bond. In fact, while Marxist editors reconstructed *The German Ideology* as the foundation of a unique science of history, this text is as much Marx's and Engels's attempt to come to terms with the republican critique of socialism. The same might be said of all of what Althusser calls "the Works of the Break." However, what we find in these works not a displacement but a reformulation the socialist concept of essence and the social bond — an attempt to redefine the social bond as neither substance nor form, but what the sixth of Marx's "Theses on Feuerbach" calls an "ensemble of social relations,"[15] or relations that precede and condition that which they relate. The elaboration of this notion of the "social relation" takes place primarily in Marx's and Engels's polemic with Stirner. And this is why, especially today, the previously overlooked "Leipzig Council - III. Saint Max" represents an important intervention into debates between republicans and socialists.

Burke actually sets out the terms of the republican argument quite clearly in his *Rhetoric of Motives*. "If men were not apart from one another," he writes, "there would be no need for a rhetorician to proclaim their unity. If men were wholly and truly of one substance, absolute communication would be of man's very essence. It would not be an ideal, as it is now, partly embodied in material conditions and partly frustrated by them."[16] From this republican perspective, the community is composed of differences that rhetoric can provisionally unify. But that unity is always conditioned, and therefore threatened, by the differences that constitute it. The socialist, on the other hand, believes that unity is something that exists independent of rhetoric — a fundamental essence that politics and ideology distort. But this approach invariably elides difference, eliminates dissent, and stagnates change. During the *Vormärz*, Bruno Bauer's 1844

15. Karl Marx, "Theses on Feuerbach," in *Karl Marx: Selected Writings*, ed. David McLellan (Oxford: Oxford University Press, 1979), p. 157.

16. Burke, *A Rhetoric of Motives, op. cit.*, p. 22.

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essay "The Genus and the Crowd" leveled exactly this critique at socialism. Targeting Feuerbach in particular, but socialism in general, Bauer contends that the socialist concept of essence, "species-being," or the sensuous *Gattungswesen* reduces the social bond to a thing that simply exists, rather than an ideal form that subjects or citizens create and continuously recreate through critical discourse. In Feuerbach, Bauer argues, "the human essence is for man a power which he may not nor cannot submit at all to critique."[17] The inevitable political manifestation of this sensuous, substantialist concept of essence is "a society which neither has nor makes this essence, but rather, is purely constituted by it."[18] It entails the suffocation of difference and the transformative power of critique. Similarly, the notion that political institutions might simply disappear, to be replaced by the spontaneously self-organized "crowd of free brothers," ignores the necessary, and also creative, divisiveness of the authentically political sphere. It threatens to result in a society in which "there will be but *one* dogma, and this dogma as the expression of the entire truth – rules all brothers the same way."[19] Here all "interruptions of unity through the specific differences"[20] get swallowed up in the homogeneous crowd. So long as it is assumed that the human essence is a substance, the symbolic and agonistic status of the social bond is foreclosed.

Bauer's critique of Feuerbach is, then, more or less the same critique of socialism found among the new republicans discussed above. In the work of figures such as Claude Lefort, Marxism is attacked for ignoring the specificity of the political — the irreducibly discursive and irreducibly antagonistic character of social relations. But it has yet to be noted that, in works such as *The German Ideology*, and especially in the often forgotten "Leipzig Council" section of the text, Marx and Engels are explicitly trying to come to terms with the republican criticism of the socialist concept of essence. In one of a handful of sycophantic letters Marx wrote to Feuerbach during the summer of 1844, Marx warns the older and better established philosopher of Bauer's "unspoken polemic" against him, and takes the opportunity to defend Feuerbach's concept of essence, redefining it as "the unity of man with man, which is also rooted in actual differences

17. Bruno Bauer, "The Genus and the Crowd," tr. by Michael Molloy, in *The Young Hegelians*, ed. by Lawrence S. Stepelevich (1844) (Cambridge: Cambridge University Press, 1983), p. 201.
18. *Ibid.*, p. 203.
19. *Ibid.*, p. 204.
20. *Ibid.*, p. 205.

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among men."[21] This attempt to think "essence" as both unity and difference would become crucial in *The German Ideology*, where it would not be resolved but repeatedly mulled over. The result is an understanding of the social bond as neither substance nor form, but relation (*Verhältnis*) and exchange (*Verkehr*). These two words constitute a kind of counterpoints or leitmotif in *The German Ideology*, and become Marx's and Engels's chief weapons in their polemic against Stirner's egoism. The point, then, of *The German Ideology* is not to reduce all social relations to an economic base, or to so-called "material conditions." Rather, Marx and Engels argue that relations and exchange in the broadest possible sense – economic to be sure, but also political, philosophical, commercial, libidinal, aesthetic, discursive, and rhetorical – are constituents of the social bond. The "ideological" error occurs when one extracts a particular mode of exchange and allows it to stand in for all of the others, thereby concealing a life-world of complex and overdetermined social relations behind the veneer of a single object or a single relation. Much later, in the second edition of *Capital, Volume I*, Marx analyzed this same structure in terms of the fetishism of the commodity, in which a single object (namely money) gets magically or mysteriously transformed into a "universal equivalent," both representing and obscuring the relations that go into the production of value. But the basic outline of the theory of fetishism is already there in "The Leipzig Council – III. Saint Max," and in Marx's and Engels's debate with Stirner.

The few extant interpretations of Marx's and Engels's debate with Stirner range wildly, but share common themes. Nicholas Lobkowicz asserts that reading Stirner forced Marx to concoct the science of historical materialism. Confronted with Stirner's denunciation "not only [of] a certain type of ideal, but [of] all ideals whatsoever,"[22] Lobkowicz argues, Marx "simply translated his ideal into laws of history."[23] In a similar vein, Jacques Derrida speculates that Marx rebukes Stirner at such great length because, in Stirner's hunt for specters, he finds "a brother, a double, thus a diabolical image" of himself.[24] Picking up on a hunting metaphor pursued by Marx and Engels throughout "The Leipzig Council," Derrida proposes

21. Saul Padover, *The Letters of Karl Marx* (Engelwood Cliffs: Prentice-Hall, 1979), p. 35.

22. Nicholas Lobkowicz, "Karl Marx and Max Stirner," in *Demythologizing Marxism*, ed. by Frederick J. Adelmann (The Hague: Marinus Nijhoff, 1969), p. 85.

23. *Ibid.*, p. 90.

24. Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International*, tr. by Peggy Kamuf (New York: Routledge, 1994), p. 139.

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that Stirner "*poached* the specters of Marx."[25] Neither of these readings, nor any of the others available at this point, really addresses the specific arguments that Marx and Engels marshal against Stirner in "The Leipzig Council – III. Saint Max." In working through Stirner's text in meticulous detail — a painstaking labor that, in the famous "Preface" to his *Critique of Political Economy*, Marx refers to as a process of "self-clarification"[26] – Marx and Engels develop two related themes. The first involves what would later come to be called "ideology," or the institutional and political articulation of powerful, hegemonic ideas. The second involves the concept of "property," and specifically the claim that one only owns property to the extent that one owns something that can be exchanged with others – something, as Marx and Engels put it, "vendible [*Verschacherbares*]."[27] Along with these two broad themes, "The Leipzig Council – III. Saint Max" is also a sometimes explicit, sometimes implicit meditation on the question of language as such, and the effectivity of discourse or rhetoric. This particular aspect of the text is especially important today, as Marxism and its heirs continue to grapple with the "linguistic turn" in contemporary philosophy and in their own competing public discourses.

It is not especially well known that the comments on the concept of hegemony that now form part of the frequently sited and anthologized introductory "Feuerbach" chapter of *The German Ideology* were originally written as part of the polemic against Stirner. Only in the third and final draft of the text did Marx and Engels move those manuscript pages from "The Leipzig Council" to "Feuerbach," where they were incorporated into the final third of the text's introduction. While the editors of the *Collected Works* insert a section break to indicate this shift, others spackle over it to make the argument appear seamless. But when Marx and Engels tell us that each revolutionary class is "compelled, merely in order to carry through its aims, to present its interest as the common interest of all members of society" and that "it has to give its ideas the form of universality, and present them as the only rational, universally valid ones,"[28] it must be kept in mind that this assertion originally formed part of the polemic against Stirner. In *The Ego and Its Own*, Stirner denies the reality

25. *Ibid.*, p. 140.
26. Karl Marx, "Preface to *A Critique of Political Economy*" in *Karl Marx: Selected Writings, op. cit.*, p. 390.
27. Karl Marx and Friedrich Engels, *The German Ideology. Karl Marx-Friedrich Engels Collected Work*, Vol. 5, tr. by Clemens Dutt *et al.* (1845-7) (London: Lawrence and Wishart, 1975), p. 230.
28. *Ibid.*, p. 60.

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of all ideals, all collective identity, all morality, and everything save the solitary ego – *Der Einzige*. Specifically, he rejects the Hegelian concept of the ethical community, or *Sittlichkeit*. This communitarianism, he claims, and all other forms of humanism, are nothing but specters, no less abstract and theological than a spirit or god. They invariably result, not in freedom, but in clerical and moralistic confinement of the ego's pleasure or "self-enjoyment." The religion of man is no less oppressive, and no less pious, that that of a god. "If one finds man's chief requirement in piety," Stirner writes, "then there arises religious clericalism; if one sees it in morality, then moral clericalism [*sittlichche Pfaffentum*] raises its head."[29] A little earlier in his book, Stirner plays on the ambiguous meaning of *sittlich*, noting the cultural relativity of morals, and sarcastically claiming that "[t]o act according the custom [*Sitte*] and habit of one's country is to be moral [*sittlich*] there."[30] Of course, in response to these assertions, Marx and Engels do not defend the Hegelian or communitarian notion of *Sittlichkeit*. Instead, they establish a new theory of the reciprocal relationship between any given community's material practices and its abstract political, moral, and philosophical ideals. Simply to deny the existence of ideals, as Stirner does, changes exactly nothing. Instead, one must analyze the processes by which ideas mediate material conditions, and find institutional articulation. Where Stirner sees only specters to be brushed aside via his own speculative fiat, Marx and Engels see concrete ideological apparatuses — real ideologies buttressed by real institutions.

A second major theme in "The Leipzig Council – III. Saint Max" involves an extended critique of Stirner's concept of "property," and his play on words related to the German root *eigen* – *Eigentum* (property), *Eigenheit* (peculiarity), and so forth, which are in turn ascribed to the unique individual or ego in its "ownness" (*Einzige*). Now, Marx and Engels criticize Stirner for relying on etymology and other rhetorical "conjuring tricks."[31] But their point is not, as Derrida and others have suggested, simply to insist upon a "real life" that subtends rhetoric. It is, rather, to privilege socially effective, convincing, if not exclusively rational public discourse, as opposed to Stirner's ineffective, highly idiosyncratic self-examination. In the case of the concept of property, Marx and Engels want to prove that, exactly like language and signs in general,

29. Max Stirner, *The Ego and Its Own*, tr. by Steven Tracy Byington (Cambridge:Cambridge University Press, 1995), p. 72.

30. *Ibid.*, p. 65.

31. Marx and Engels, *The German Ideology*, *op. cit.*, pp. 272-301.

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property only has value to the extent that it can be exchanged. Property first accrues real value through social relations. Here a quick look at Lawrence Stepelevich's work on Stirner is helpful. Taking Stirner's side against Marx, Stepelevich has argued that, while Marx sees property as a form of alienation (*Entfremdung*), and thus something that separates me from myself, Stirner sees it as the genuine expression (*Entäusserung*) of the ego's individuality – what first *makes* me myself. According to Stepelevich, for Stirner the relationship between ego and property, the willful act of appropriating a thing, "renders both subject and thing intelligible."[32] However, through their debate with Stirner, Marx and Engels come to define property not only in terms of alienation but also and far more importantly in terms of exchange. Thus, Stirner rejects communism because he fears that, in seeking to eliminate property, the communists will also eliminate what is "proper" or "peculiar" to the individual, thereby eliminating differences between egos. "In reality," Marx and Engels retort, "I possess private property only insofar as I have something vendible [*Verschacherbares*], whereas what is peculiar to me [*meine Eigenheit*] may not be vendible at all."[33] Property, then, is neither an expression *of* the subject nor alienated *from* the subject, but an exchange *between* subjects — an exchange or a mode of interaction that constitutes them as particular kinds of subjects. "The Leipzig Council – III. Saint Max" is concerned with precisely this priority of the relation or exchange to both the thing and the subject — the enigmatic sense in which a relation, or an "ensemble of relations," might precede and condition that which it relates.

This brings us finally to the question of language, and the theory of language that Marx and Engels toy with throughout "The Leipzig Council – III. Saint Max." Here it is crucial not to ignore the formal and generic frame of *The German Ideology* – a mistake that has been very common among those who read only the "Feuerbach" chapter. While it has been retroactively constructed as a science of history, this work is actually a parody and a polemic. "The Leipzig Council – III. Saint Max" ironically doubles or repeats the structure of *The Ego and Its Own* in exacting, excruciating detail. The joke, of course, is that this "unique" book can be so easily copied, meaning that it is not unique at all. An analogous point is made from a slightly different direction when Marx and Engels accuse Stirner of copying his potted history of the world from Hegel's *Philosophy*

32. Lawerence Stepelevich, "Max Stirner as Hegelian," *Journal of the History of Ideas* (Vol. 46), p. 612.

33. Marx and Engels, *The German Ideology, op. cit.*, p. 230.

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of History, a posthumously published collection of lecture notes that had a considerable influence on the left Hegelians. Far from being a heroic, individualistic, unique ego, Stirner is but a "'clumsy' copier of Hegel"[34] – a truant school boy who relies on a Hegelian "crib." The joke is extended throughout the text, where Marx and Engels endlessly name and rename the one who thinks of himself as "unique" – calling him Saint Max, Saint Jacob, Jacques le bonhomme, Sancho Panza, Saint Sancho, the Unique, or simply "Stirner" in quotation marks. This assemblage of sobriquets recalls the fact that "Max Stirner" is not a proper name at all, but a pseudonym for (a copy of) the "parochial Berlin school-master"[35] Johann Kaspar Schmidt. So the self-declared unique ego's school motto should, Marx and Engels quip, read "*Repetitio est mater studorium*"[36] – repetition is the mother of learning.

These jokes could be cast aside as so much rhetorical embellishment. Or, they might be seen to articulate a very complex philosophical theory of language. According to Stepelevich, Stirner's goal is to produce a unique discourse – a language that is owned by the ego who expresses it. This understanding of language as "property" is, Stepelevich maintains, illustrated in Stirner's own concept of *Der Einzige* – the unique ego or owner. Stirner wants to end what Stepelvich calls the "false belief that one's ideas are not one's own possessions, but have an objectivity and substantiality apart from the knowing ego."[37] And Stirner's own ideas are an enactment or performance of this principle. Thus Stepelevich claims that Stirner "introduces into the philosophical literature a new term intended to convey a note of radical exclusiveness, a term that would lie outside all classification: '*Der Einzige.*'"[38] Since it remains "beyond the forms of consciousness that set definitions," this unique term "is *undefinable.*"[39] Thus the very word *Einzige* is an expression (*Entäusserung*) of Stirner's ego – his property. But if it is the case that *Der Einzige* truly is a unique concept, copyrighted and owned by Max Stirner alone, then by definition what Stirner "intended to convey" would be lost to Stepelevich (and everyone else for that matter) from the outset. As if to anticipate Wittgenstein's well known critique of private languages, Marx and Engels

34. *Ibid.*, p. 170.
35. *Ibid.*, p. 170.
36. *Ibid.*, p. 186.
37. Stepelevich, "Max Stirner as Hegelian," *op. cit.*, p. 613.
38. *Ibid.*, p. 607.
39. *Ibid.*, p. 609.

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make the same point about *all* of Stirner's words:

> The second rock against which Saint Sancho [i.e. Stirner], on reflecting a little, was inevitably bound to shipwreck, is his own assertion that every individual is totally distinct from every other, is unique. Since every individual is altogether different from any other, it is by no means necessary that what is foreign, holy, for one individual should be so for another individual; it even *cannot* be so. And the common name used, such as State, religion, morality, etc., should not mislead us, for these names are only abstractions from the actual attitude of separate individuals, and these objects, in consequence of the totally different attitude towards them of the unique individuals, become for each of the latter *unique* objects, hence totally different objects, which have only their name in common. Consequently, Saint Sancho could have at most said: for me, Saint Sancho, the State, religion, etc., are the Alien, the Holy. Instead of this he has to make them the absolute Holy, the Holy for all individuals – how else could he have fabricated his constructed Ego, his egoist in agreement with himself, etc., how else could he have written his whole "Book?"[40].

If language were not made up of signs that are exchangeable – indeed repeatable — apart from and prior to the knowing ego, communication would be impossible. Stirner's book relies, then, on a performative contradiction. He cannot both mean what he says and say what he means. Indeed any book, any inscription, any utterance whatsoever relies on a minimal affirmation of the possibility of communication, and therefore of community, or relations and exchange with others. In repeating and parodying Stirner's book section by section, line by line, Marx and Engels enact this aspect of discourse as such — the sense in which every sign acquires meaning by being repeated within a (determinate, conditioned, but still alterable) social context. And this performance is perhaps the point of Marx's and Engels's elaborate, vicious joke. Copying, repetition, or what Derrida calls "iteration"[41] is a condition and not simply a function of language. Against both the nominalist and the expressivist theories of language, the meaning or value of a sign is not initially derived from reference to a thing or the expression of an intention, but from repetition within a social context, which also provides it with its power or, in the

40. Marx and Engels, *The German Ideology, op. cit.*, p. 285.

41. Jacques Derrida "Signature Event Contextm" tr. by Samuel Weber and Jeffrey Mehlman, in *Limited Inc* (Evanston: Northwestern University Press, 1988), p. 12.

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terms of speech act theory, its "illocutionary force." For his part, Stirner views every social context as a realm of false specters, chimeras and ghosts. He claims he does not believe in such things. And yet, despite all of his bluster, he must believe in such things. How else could he have written his whole book?

3. The "Marx-Engels Machine" and the Politics of Parody

The question of how Stirner could have written his book — without some notion that language involves intersubjective exchange within a public, symbolic life-world — opens directly onto the far more pressing issue of how Marx and Engels sought to write theirs. *The German Ideology* is quite explicitly and demonstrably not the production of a single author with a unified intention, but a collaborative work. The collaborative character of *The German Ideology* itself represents part of Marx's and Engels's critique of the subjectivism and the egoism they find in Bauer and Stirner. What is more, the text is not only the production of two (or more) authors, it also consists largely of an assemblage of copied passages, citations, quotations, and references to other works. In this sense the textual assemblage called *The German Ideology* represents a kind of primal scene of left Hegelian polemics and republican discourse. The text itself becomes something of a *res publica* — an open discursive space where a multitude of literate citizens converge, struggle, debate, and in doing so come to define and redefine themselves and each other through processes of reading and writing. The theatrics of these debates can be displayed at the level of the manuscript page through a critical-editorial approach to the text's intricate construction, transmission, and reception. Although editors have concealed most of these complications behind the veneer of a coherent argument, the manuscript of *The Leipzig Council - III. Saint Max* poses irresolvable problems of legibility, iteration and alteration on a number of distinct levels: 1) Marx's and Engels use of Stirner's citations from and interpretations of Hegel, 2) Marx's and Engels's citations from and readings of Stirner, including their mutual editing and revisions of one another, and 3) the transcription, editing, and publication of Marx's and Engels's manuscript by editors and its presentation for readers as a "definitive work of Marxism." A close analysis of the manuscript – one which attends to its laminated textual layers, its histories, its insufficiencies, and its productive lacunae — will open up a new approach to *The German Ideology*, and to the disputes which both provoked and were later produced by it.

First it is important to address the politics of interpretation within the

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complex publication history of this work, which appeared only piecemeal over the course of more than a century. In spite of the best efforts of Marx and Engels, only two parts of the second volume on "true socialism" escaped suppression by the censors in their lifetime (Chapter V on Kuhlmann, which appeared in 1845, seems to have been written by Hess, copied by Weydemeyer and edited by Marx and Engels); a few pieces of the critique of Stirner were edited and published by Eduard Bernstein in 1903-1904, and only in 1924 did the section that Engels later designated as "Part I" on Feuerbach appear, but in Russian translation, followed by German and English translations from the Russian two years later; and finally, "the whole book" — insofar as such an expression can apply to an incomplete manuscript with several missing and damaged pages — was edited and published by the Institute of Marxism-Leninism in German in 1932, with the first complete English edition by Progress Publishers appearing in Moscow in 1964.[42] In short then, the troubled textual transmission of *The German Ideology* met much the same the fate as the posthumous remains (*Nachlass*) of Marx's and Engels's theoretical and historical legacy itself, caught as it was in the struggles of nineteenth and twentieth century republicanism, scientific Marxism, and "actually existing" socialism.

Any presumption to read this text, or any part of it, as somehow constituting the original doctrine of dialectical materialism, or as "a comprehensive exposition of the materialist conception of history," as editorial notes and interpretive commentaries have tried to establish, must therefore be met with suspicion.[43] Since Marx and Engels never completed a final version but were continuously engaged in planning, writing, revising, rearranging, supplementing, deleting, editing, and recopying the manuscript — usually in collaboration with each other though also individually — from April 1845 until they finally abandoned it in April 1847, the published text must at best be approached as an unstable and provisional unity, rather than as a definitive statement of their ultimate intentions.[44] Notwithstanding these precautions, however, the famous opening section which supposedly provides the definitive exposition of the doctrine of historical materialism titled "I. Feurebach" offers what is perhaps the richest

42. See editors' note 7 to Karl Marx and Friedrich Engels, *The German Ideology, op. cit.*, pp. 586-588.

43. *Ibid.*, pp. 588-589.

44. W Hiromatsou, ed. *Die deutsche Ideologie. 1. Band, 1. Abschnitt* (Tokyo: Kawadashobo-Shinsha, 1974), and G. Thomas Tanselle "The Editorial Problem of Final Authorial Intention," in *Selected Studies in Bibliography* (Charlottesville: University of Virginia Press, 1979).

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concept and the most "dialectical" of images in the work as a whole. Indeed, the celebrated figure of the *camera obscura* suggests a way of projecting a coherent image of the text as a model for the agonistic politics of reading and misreading itself.[45] In their attempts to restage the debates of their fellow Young Hegelians textually, Marx and Engels "develop a picture," so to speak, of this polemical field as a potentially open forum for democratic dialogue, civil discussion, and republican reasoning:

> The production of ideas, of conceptions [*Vorstellungen*], of consciousness, is at first directly interwoven with the material activity and the material intercourse [*materiellen Verkehr*] of human beings [*Menschen*], the language of actual life. Imagining [*Vorstellen*], thinking, the mental intercourse [*geistige Verkehr*] of humans still appear here as the direct product or outlet [*Ausfluß*] of their material behaviour. The same applies to mental production as represented [*dargestellt*] in the language of politics, laws, morality, religion, metaphysics, etc. of a people. Human beings are the producers of their conceptions, ideas, etc., that is, actual, active humans as they are conditioned by a definite development of their productive forces and of the intercourse corresponding to these, up to its furthest forms. Consciousness [*das Bewusstsein*] can never be anything else than conscious being [*das bewusste Sein*], and the being of humans is their actual life-process. If in all ideology humans and their relations appear upside-down as in a *camera obscura*, this phenomenon arises just as much from their historical life-process as the inversion of objects in the retina does from their physical life-process.[46]

Often overlooked in commentaries on this passage – which appears on the last of the opening five pages of the "clean copy" that Engels carefully edited and rewrote from an earlier draft in preparing the text for publication — is the manner in which it recommends reflexively resituating the philosophical and literary debates among the Young Hegelians — Marx and Engels included – within the historical and political struggles of the day. Thus, to posit a clean break (epistemological or otherwise), a sheer opposition or simple negation between the "science" of Marx and Engels and the "ideology" of their cohorts and adversaries, as many later readers have tried to do, contradicts both the critical spirit of their concept of ideology and

45. W.J.T Mitchell "The Rhetoric of Iconoclasm," in *Iconology: Image, Text, Ideology* (Chicago: University of Chicago Press, 1986).

46. Marx and Engels, *The German Ideology*, *op. cit.*, p. 36, and Karl Marx and Friedrich Engels, *Die deutsche Ideologie*, in *Karl Marx –Friedrich Engels Werke*, Band 3. ([1845-7] Berlin: Dietz Verlag, 1959), p. 26, trans. modified.

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their actual practice in this text. In other words, the "German ideology," the philosophical ideas and world outlook of their colleagues and rivals (in these opening pages, Feuerbach is both the target of attack and a congenial ally), can be understood as both the form and the content of *The German Ideology*, that is, as a kind of textual instrument or medium that Marx and Engels were constructing in order to see and think (*theoria*) more clearly about social and political relations. Considered in the light of both its circumstances of composition and the contexts of its reading and interpretation, the text of *The German Ideology* might therefore be characterized as the *camera obscura of left Heglianism* — not just simply as the intellectual reversal of its theses and claims, but as a reading and recording machine, an assemblage of citations and commentaries, syntheses and criticisms that both invert and displace the thought-images of ideological writing.

As already noted, in spite of the prevailing wisdom of Marxist commentary, this opening discussion on "I. Feuerbach," along with the "Preface" to the text and Marx's celebrated eleven theses "ad Feuerbach" from 1845, serves mainly as a kind of pretext or prologue to the main argument, with the more massive second section titled "The Leipzig Council," which makes up well over half the manuscript, occupying the centre stage of this theoretical theatre. This Marx-Engels co-production is itself divided into two parts or "acts" — subtitled "II. Saint Bruno" and "III. Saint Max" — that ostensibly wage a war of words against Bauer's and Stirner's critiques of Feuerbach and others appearing in volume three of *Wigand's Vierteljahrschrift* in 1845. The opening shots in this skirmish take the form of a brief rejoinder to the critique of Marx's and Engels's *Holy Family* by "B. Bauer and Consorts," followed by a more extensive engagement with Stirner's "apologetic commentary," that is, his defensive review of his own book, *Der Eigene und sein Eigentum* (*The Ego and His Own*, or *The Unique and its Property*), which Marx and Engels ridicule in the form of a series of "episodic insertions" into and "meditations" upon the "original." In presenting what they call "another reading" (*Lesart*), they elaborate on a satirical pseudo-hermeneutics that mimics the division of Stirner's book into an "Old Testament" whose hero is "Man," and a "New Testament," whose hero is "the Ego, the Unique," the latter itself occasionally recast as the adventures of Sancho Panza (Stirner) and his knight errant, Don Quixote (Franz Szeliga). This extraordinary weave of cross-references and self-citations, textual doublings and displacements which originally appeared in Wigand's periodical is in turn dramatically rescripted by Marx and Engels first as a meeting of "church fathers"

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gathered for a holy "inquisition," with Marx and Engels in the role of backstage witnesses "taking a verbatim report of the proceedings," and then as a "cordial dialogue" which occasionally breaks out into a "touching duet" between Saint Max and Saint Bruno, with Marx and Engels interrupting as a diabolical chorus from off-stage.[47] Their critical commentary thus enacts and redeploys the etymological meaning of "parody," which refers to a repetition or imitation that both appears beside (*para*) and aims to mock or ridicule the original, often in the form of a poem or song (*oide*).

This play within a play (*Stück in Stücken*), or *mise-en-abime*, is probably best understood when its performance is displayed and observed rather than merely described and read, as on the manuscript page numbered "53" (see Figure 1). This page provides a remarkable but not atypical example of Marx's and Engels's collaborative method of research and writing, and of the apparent textual division of labour between them, with Engels apparently serving as amanuensis or initial draftsman and Marx as commentator and critical editor, but each routinely correcting and revising the other. The result is a sometimes chaotically coordinated collection of intersecting quotations and critical interpretations, with a first draft or core text on the left-hand column (usually in Engels' hand), marginal addenda and elaborations in the right (by both Marx and Engels), and multiple overlaying insertions, deletions and substitutions by each of them throughout. Complicating matters in this instance is what Marx famously described in 1859 as "the gnawing criticism of the mice" from the left side of the page, to which he admits he eventually had to abandon "this large manuscript in two octavo volumes," the product of an extensive "written exchange of ideas with Engels," when "altered circumstances" made publishing it impossible.[48]

47. Karl Marx and Friedrich Engels *The German Ideology. Karl Marx-Friedrich Engels Collected Work. op. cit.*, p. 451-453.

48. Karl Marx, "Preface to *A Critique of the Political Economy*," *op.cit.*, p. 390.

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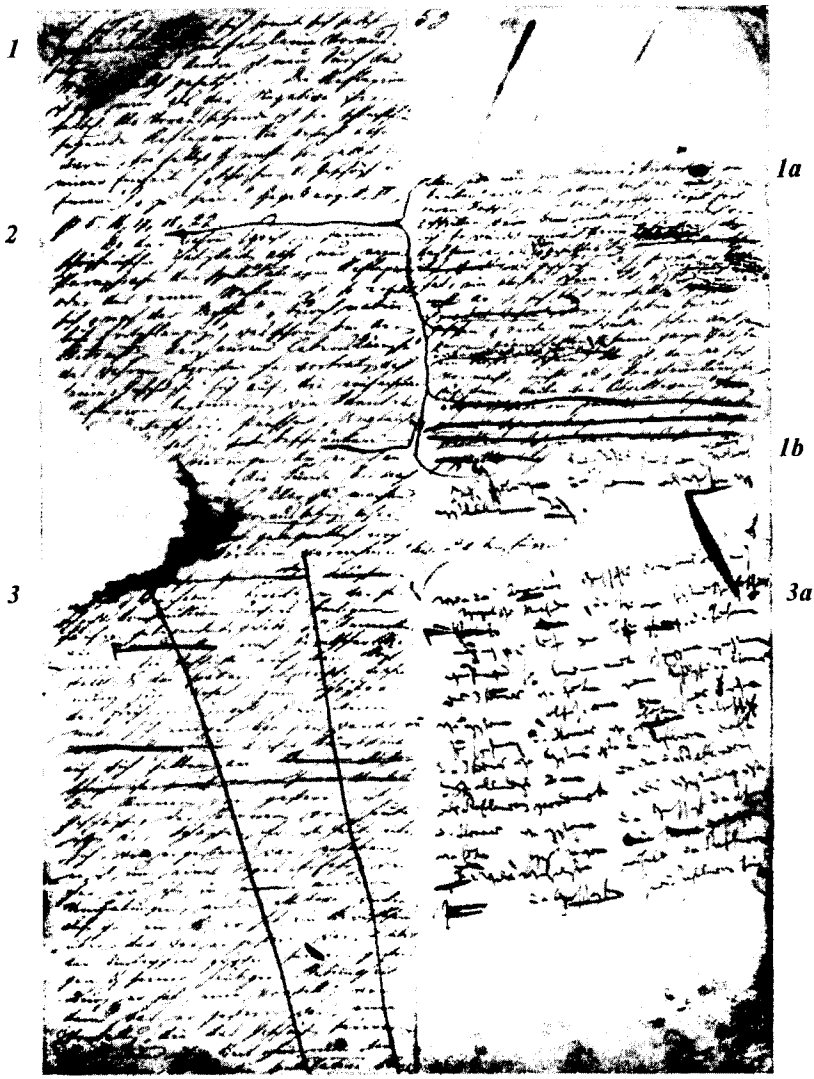
Figure 1: The Marx-Engels Machine
Marx and Engels, *The German Ideology*, *op. cit.*, pp. 226-27; reproduced by permission



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Engels's parodic portrait on the previous page of Stirner as a "gesetzter Mann" (a play on the meaning of "gesetzt" as both "posited" and "sedate") who is caught up in "the 'machinations' of the 'creative nothing' [*die 'Machinationen' des 'schöpferischen Nichts'*]" that he has forged out of Hegel's doctrine of essence.[49] Copying and exaggerating Stirner's own procedure, Marx and Engels seize the opportunity to "'episodically insert' a few passages from Hegel's explanation of self presupposition "for comparison with Saint Max's explanation." The sequence and connections between the distinct components of their quotations and commentary (labeled 1-3a in the margins of Figure 1) can be plausibly reconstructed as follows:

1. A series of Stirner's quotations from five pages of Hegel's *Logic*, Book II, written in Engels's hand: E.g. "'essence presupposes itself and is itself the transcendence of this presupposition'," and "reflection is and is not a unity ('creator and creation in one')."

2. Commentary in Engels's hand (partially damaged) on the above quotations: "Since the true egoist in his creative activity is, therefore, only a paraphrase of speculative reflection or pure essence," it follows that the "creations" of Stirner's "*pre-suppositionless* [ego]" are "limited to the simplest determinations of reflection."

3. Further elaboration in Engels's hand on the preceding commentary: E.g. "The Stirner of 'yesterday' " and "the Stirner of 'today'" are mere "creations" of one another.

1a. Critical commentary on the quotations in 1 inserted in Engels's hand: Since Stirner has not done "further research into Hegel's *Logic*," he only posits a pseudo or "*seeming* ego [*Schein-Ich*]" that performs mere "'juggling tricks on the tightrope of the objective'."

1b. A deletion and one-sentence addendum in Marx's hand to the above commentary: Stirner's ego "is always a dumb, hidden 'ego,' hidden in his *ego* imagined as *essence*."

3a. A restatement, revision, and amendment of 3 in Marx's hand: Through

49. See Marx and Engels, *Die deutsche Ideologie, op. cit.*, p. 266 and *The German Ideology, op. cit.*, p. 269.

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the inversions of "reflection," "the Stirner of today" can alternately be pictured as either the creation of or as created by "the Stirner of yesterday," just as "in reflection the conditions of the external world are merely *creations* of his reflection."

The text is thus a complex montage of hyperbole and citation, repetition and ridicule, in which Marx and Engels recast Stirner's glosses on Hegel by treating them as an occasion to work through their own dynamic and historical concept of essence (*Wesen*). In the process, quite a lot of "poaching" (*Jagdfrevel, braconnage*) is on display here beyond what Derrida has observed,[50] including Stirner on Hegel, Engels and Marx on Stirner, as well as Marx and Engels on one another. Even the editors and the mice appear to be in on the hunt within this intricate textual economy, as it is not just Marx and Engels who struggle to restore what Stirner has destroyed in Hegel, but also the editors who repair the damage done by the mindless intervention of the forces of nature by interpolating the missing portions of the text (in #2 above), while at the same time allowing the deletions (such as the whole of #3) made by Marx, Engels, or some later editor (such as Bernstein) to disappear in the published version.

Against Stirner, Marx and Engels argue that Hegel could not have grounded the concept of essence in the fictional expressions of a fully formed abstract and autonomous ego but rather in the concrete social relationships and historical struggles of an ethical community-in-the-making, in an ensemble of relations that are potentially or in the process of being realized. In the continuation of this argument on the following manuscript page, Stirner's empty "moral postulate" to "become an all powerful ego" is revealed to be "nothing, a non-thing [*Unding*], a phantasmagoria," a kind of lure that Stirner has concocted out of Hegel by following the delusions of his own imagination and of his knight-errant, Szeliga. In effect then, we can say that Marx's and Engels's procedure here is to analyze the elements of the "Ego," which Stirner invents out of the "the 'machinations' of the 'creative nothing' in Hegel," in order to reverse and reassemble them into their own interpretive apparatus, or what can be called (on the model of their own fanciful coinages throughout this text) *the Marx-Engels machine.* This "ME-machine" should not be imagined as a unitary egological-philosophical invention pitted against the fantastic mental products of Stirner and Hegel, either separately or in combination, but rather as an interpretive-political construction which *both* Marx *and*

50. Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International*, tr. by Peggy Kamuf (New York: Routledge, 1994), p. 140.

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Engels have concocted through their collaboration with one another. As Marx later reports in the 1859 "Preface" to *A Critique of Political Economy*, their ultimately fruitless efforts to "settle accounts with [their] erstwhile philosophical conscience" at least allowed them to achieve their principal aim, namely, mutual understanding of one another or self-clarification (*Selbstverständigung*). *The German Ideology*, or what we are calling the ME-machine, is thus not just as a moral or philosophical accounting device for intervening in the ideological debates among post-Hegelian thinkers, but above all a technology of reflection and illumination designed for personal and public as well as political and theoretical enlightenment (*Aufklärung*).

In recognizing *The German Ideology* to be the joint-work of both Marx and Engels in their encounters with Stirner, Hegel and others, and in view of the supplementary interpretive activities of editors in their attempts to restore sense to a damaged, disordered and incomplete work, we have tried to resist any reading which reduces the text to the spectral or specular opposition between Marx and Stirner alone (or between Marx and Feuerbach or Bauer), each the ghostly double of the other, as Derrida has tried to do in *Spectres of Marx*.[51] Rather, as Terrell Carver has pointed out, in light of the text's character as a dialogue and debate with predecessors and contemporaries *and between Marx and Engels themselves*, any reading must at least also take the following questions into account: "When is Engels speaking for himself? When is Marx speaking through him, together with him (and visa versa)? When is Marx speaking for himself against Engels (and was there ever a visa versa)? ... What are they saying to each other rather than to readers? To readers in agreement with each other?"[52]

In Volume Two of *The German Ideology* on "The Critique of German Socialism According to its Various Prophets," which follows "The Leipzig Council," Marx and Engels explain that they are ultimately interested in retelling the intellectual histories of Stirner and his ilk, or rather, his ghost stories (*Geistesgeschichten*), as a narrative concerning the spirit of revolution and the spectre of communism that is terrorizing the old powers of Europe. Like Stirner and his academic colleagues, the "'true' socialists as they call themselves regard foreign communist literature not as the expression and the product of a real movement but as purely theoretical

51. *Ibid.*, pp. 120-147.

52. Terrell Carver "Writing and Reading: Marx's Voices," in *The Postmodern Marx* (University Park: Pennsylvania State University Press, 1998), p. 168.

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writings which have evolved ... by a process of 'pure thought.'"[53] In a remarkable dual-column display, Marx and Englels show how the usual method employed by literary radicals such as Karl Grün is to "translate" or "annex," to "copy" or "erase" the original writings of utopian socialist writers such as St. Simon, Fourier, Cabet and Proudhon in a way that "emasculates" their polemical connection to actual social movements and abandons their prophetic vision. The figure of the "spectre" that haunts *The Communist Manifesto*, that other Marx and Engels co-production from 1848 (in particular, the famous opening lines as well as the third section which specifically addresses the "'true' socialists"), thus does not just reiterate the critique of Stirner and his politically minded counterparts as much as it re-cites and re-collects the potential institutional (that is, "illocutionary") force of the radical utterances of these intellectuals as a revolutionary speech-act with potentially real historical consequences.[54] The collective appeals to "we communists" and "you proletarians" in the *Manifesto* are thus pronounced to acknowledge, anticipate, and activate the provisional unity and class constitution of a plural political subject that has only been abstractly individualized and ideally intellectualized in the esoteric debates among the German literati.

As Engels remarks in his retrospective account from 1886 of what he called "the end of classical German philosophy" that the Young Hegelian philosophical movement helped to bring about, in contrast to "the French [who] were in open combat against all official science, against the Church and often also against the State," the Germans "were professors, State appointed instructors of youth" whose writings were even raised "to the rank of a royal Prussian philosophy of State."[55] As Althusser might put it, the promoters of the "German Ideology" ("GI") had therefore themselves become functionaries in the ideological state apparatus of the education system, which had already become a philosophical manufactory for producing government issued (GI) ideas and utterances stamped with the endorsement of the nation-state.[56] Against the petty bourgeois individualism and provincial German communitarianism asserted in the philosophical treatises, political circulars, prosaic journalism, and poetic outpourings of their

53. Marx and Engels, *The German Ideology, op. cit.*, p. 456.

54. Thomas M. Kemple, "Post-Marx: Temporal Rhetoric and Textual Action in 'The Communist Manifesto,'" in *Rethinking Marxism* 12 (Vol. 2, 2000), pp. 44-60.

55. Friedrich Engels, "Ludwig Feuerbach and the End of Classical German Philosophy," in *Karl Marx – Friedrich Engels Collected Works*, Vol. 26. ([1886/1888]London: Lawrence and Wishart, 1990), p. 357.

56. Althusser, "Ideology and Ideologiocal State Apparatuses," *op. cit.*, pp. 152-157.

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contemporaries, Marx and Engels hoped to undermine the established relations of power that threatened to mute and weaken the radical voices of change. The practice of deconstructive reading that they engaged in through their collaboration on *The German Ideology* is inspired by a desire to remain open to unknown forces that may yet body forth the spirit of political revolution from the letter of philosophical writing.

Conclusion: Reading the Republic

The discursive genres constituting the project of "writing the republic" that we have invoked above in terms of polemical debate and rhetorical argument, philosophical discussion and scientific description — but which would also include more official discursive forms such as political charters and legal constitutions — pose distinctive interpretive and political problems of *reading*. In various ways, republican writing presupposes and anticipates the response of the members of a *reading public* who are called upon, solicited or interpellated to take up its prescriptions and pronouncements according to their own circumstances and cultural habits. For this reason, writing and editing, publishing and reading the texts of republican philosophizing are not simply intellectual exercises but also social and political activities. Caught up in the web of historical relationships, not only is a text's readership redefined or expanded with every new edition, but so also are the ways of interacting with that readership. In literary studies, for example, this notion has been explored by the new bibliographers. "As the process of textual transmission expands," Jerome McGann writes, "whether vertically (over time) or horizontally (in institutional space), the signifying process of the work becomes increasingly collaborative and socialized."[57] Considered as a method for the discursive mediation and documentary coordination of social relations, the performance of republican writing is in this view inseparable from ongoing debates among both reading publics over the politics of interpretation, and professional writers and editors regarding the technical processes of publication.

As evidenced by *The German Ideology* perhaps better than any other work in the Marxist canon, the practice of reading is philosophically far more intricate and politically problematic than any formal hermeneutic model might suggest. It involves much more than endeavoring to reconstruct the coherent, animating intention of a single author, or a fusion of horizons between reader and author. Along with the, broadly

57. Jerome McGann, "What is Critical Editing?" in *The Textual Condition* (Princeton: Princeton University Press, 1991), p. 58.

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speaking, "external" institutional and editorial frames that condition the production, dissemination, and thus the consumption of texts, it is equally necessary to pay close attention to their "internal" literary, rhetorical, and aesthetic forms. As we have demonstrated above, a single page of manuscript can become a kind of *camera obscura* in which not only a whole text, but also a whole history of interpretation and application may be reflected, inverted, and distorted in multifarious ways. Such an insight might also open onto dramatically new and newly effective readings of works that many have too hastily set aside. Precisely because of the irreducibly symbolic and fictional — literary and imaginative — status of the republican social bond, more research needs to be conducted into the discursive, rhetorical, and even visual aspects of the texts of the *Vormärz* – the range of genres, tropes, and styles employed, as well as the typographical innovations, the insertion of non-linguistic characters, figures, and illustrations into texts, the dismantling of established or authorized forms of public discourse, and the incredible if often vicious humor and wit displayed by almost all of the left Hegelian writers, but perhaps none more powerfully than Marx and Engels. It must be known that this movement, in all its diversity, was as much an attack on the seriousness of official German culture as it was a serious political discourse of its own. As often as not, a large part of the meaning of these polemical debates and textual exchanges is contained in a joke, an aside, even a slip of the pen – in what conventional scholarship treats as an excess, an embellishment, something to be avoided or eliminated altogether. But there is no understanding left Hegelian republicanism or the revolutionary work of the *Vormärz* without close attention to everything that even today's official cultures continue to elide. It is not merely out of a perverse desire for Byzantine complication that we highlight these excessive, incommensurable elements of *The German Ideology*, but in an effort to ensure that the somber dogmatism and moribund pedantry that Marx and Engels so despised are never again allowed to take control of their legacy, or to silence the emancipatory promise that their names should rightly continue to evoke — even today, especially today, and into a future that remains to come.

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From Habermas to Horkheimer's Early Work: Directions for a Materialist Reconstruction of Communicative Critical Theory

Konstantinos Kavoulakos

When, in the 1980s, Jürgen Habermas reached the crystallization of his communicative critical theory and completed its normative foundation based on his notorious "discourse ethics,"[1] the social philosophy of Max Horkheimer seemed irreversibly out-dated. Despite the fact that Habermas, from his very first steps in the 1960s,[2] was clearly influenced by the early work of the "founder" of the Frankfurt School, supporters of communicative theory felt justified to announce that "old critical theory" had been definitively surpassed, since it obviously belonged (along with Marx and Lukács) to the, by then, old-fashioned "philosophy of consciousness."[3] If that were really the way things stood, then going back from

1. Jürgen Habermas, *Moral Consciousness and Communicative Action*, tr. by Christian Lenhardt, Shierry Weber Nicholsen (Cambridge: Polity Press, 1990), *The Theory of Communicative Action*, tr. by Thomas McCarthy, 2 vols. (Cambridge: Polity Press, 1991-1992).

2. The influence of Horkheimer is already obvious in Habermas, "Technology and Science as 'Ideology,'" in *Toward a Rational Society*, tr. by Jeremy Shapiro (Boston: Beacon Press, 1971), and continues throughout the 1970s in the interdisciplinary program of a "reconstruction of historical materialism." Compare the texts in Habermas, *Communication and the Evolution of Society*, tr. by Thomas McCarthy (Cambridge: Polity Press, 1991).

3. See e.g. the "final judgement" as formulated by Gerhard Brandt, "Max Horkheimer und das Projekt einer materialistischen Gesellschaftstheorie," in *Max Horkheimer heute: Werk und Wirkung*, ed. by A. Schmidt, N. Altwicker (Frankfurt a.M.: Fischer, 1986), pp. 279-80. During the same period (1985) Hauke Brunkhorst presented Horkheimer's early work as incurably eclectic and deeply contradictory. See Brunkhorst, "Dialectical Positivism of Happiness: Horkheimer's Materialist Deconstruction of Philosophy," in *On Max Horkheimer*, ed. by Seyla Benhabib *et al.* (Cambridge: MIT Press, 1993). For a milder and more constructive critique of Horkheimer, see Axel Honneth, *The Critique of Power. Reflective Stages in a Critical Social Theory*, tr. by K. Baynes (Cambridge: MIT Press, 1991), pp. 5-31.

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Habermas to Horkheimer, as the title of this paper suggests I wish to do, would mean, at the most, a historical retracing of the "origins" of a contemporary philosophical and socio-theoretical position.[4]

As will become clear during the course of this paper, I believe that the facts within the domain of critical theory have changed sufficiently, so that such a retrospective analysis need not have exclusively historical motivations. What, then, does the reversal of the chronological order in the title mean? Well, going "from Habermas to Horkheimer" means, first of all, adopting a *hermeneutic* perspective on Horkheimer's early work.[5] It reveals the recognition, on my part, of the fact that it is no longer possible to "directly" approach the latter and that the only possible approach will necessarily pass through the reservations, problems and new questions, as well as the new impasses, of contemporary communicative critical theory. As is already clear from such a formulation, the hermeneutic perspective is inseparable from the confrontation of substantial socio-philosophical problems. So, the passage "*from Habermas to Horkheimer*" also means searching for solutions to the dilemmas which remain unsolved as well as to the problems which have been glossed over by contemporary communicative critical theory.

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4. Concerning the history of critical theory, Martin Jay's *The Dialectical Imagination. A History of the Frankfurt School and the Institute of Social Research 1923-1950* (Boston: Little, Brown and Company, 1973) has become a classic. See also Rolf Wiggershaus, *The Frankfurt School: Its History, Theories and Political Significance*, tr. by Michael Robertson (Cambridge: MIT Press, 1994). From the perspective of the sociology of knowledge, Helmut Dubiel offers the most systematic account of the connection between early critical theory and its socio-historical context. See Dubiel, *Wissenschaftsorganisation und politische Erfahrung. Studien zur fruehen Kritischen Theorie* (Frankfurt a.M.: Suhrkamp, 1978). More specifically about Horkheimer's work, see Helmut Gumnior and Rudolf Ringguth, *Max Horkheimer in Selbstzeugnissen und Bilddokumenten* (Reinbeck: Rowohlt, 1973). Olaf Asbach has written a complete monograph dealing exclusively with Horkheimer's early work: *Kritische Gesellschaftstheorie und historische Praxis. Entwicklungen der Kritischen Theorie bei Max Horkheimer 1930-1942/43* (Frankfurt a.M.: Peter Lang, 1997).

5. It is generally accepted that at the end of the 30s and beginning of the 40s Horkheimer turned away from his earlier program of "an interdisciplinary research into contemporary society" toward the historico-philosophical contemplations evident in Horkheimer, *Eclipse of Reason* (New York: Oxford University Press, 1947) and Horkheimer and Adorno, *Dialectic of Enlightenment*, tr. by J. Cumming, (New York: Seabury Press, 1972). In this paper, I refer only to Horkheimer's earlier works, leaving open the question of a new approach to the "classic" period of the "old" critical theory, which is still a topic under discussion. See e.g. Axel Honneth, "The Possibility of a Disclosing Critique of Society: The *Dialectic of Enlightenment* in Light of Current Debates in Social Criticism," in *Constellations* 7 (2000), pp. 116-27; Hauke Brunkhorst, "Enlightenment of Rationality: Remarks on Horkheimer and Adorno's *Dialectic of Enlightenment*," in *ibid.*, pp. 133-40, Ben Morgan, "The Project of the Frankfurt School," *Telos* 119 (Spring 2001), pp. 75-98, Roger Foster, "Dialectic of Enlightenment as Genealogy Critique," in *Telos* 120 (Spring 2001), pp. 73-93.

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Before I go on, I would like to clarify the exact nature of the starting-point of my search. Comparing and contrasting old and new critical theory, as well as defending one or the other, has already been undertaken by a number of able commentators. I do not believe I have anything to contribute to a debate which revolves around arguing for the superiority of the one side over the other, a debate which considers them to be two mutually exclusive alternative versions of critical theory.[6] Therefore, it is not my intention to defend Horkheimer against Habermas (nor do I wish to imply that Horkheimer's earlier work is preferable to that of Adorno, from whom we can also draw useful elements for a reconstruction of contemporary critical theory). We should not forget that critical theory does not aim to formulate eternal truths and immutable dogmas, rather, it is always dependent on the object of its critique, on the historical context, about which it is theorizing. Because of this, the choice of one particular conceptual framework over another is not only a theoretical issue, but is also always a politico-practical one.

I begin, then, taking for granted the dominance of communicative critical theory in discussions over the past 25 years (a dominance for which there are, of course, significant historical reasons — mainly social pacification through the compromise of the welfare state). However, I believe that communicative critical theory contained significant shortcomings from the very beginning. Shortcomings which are becoming all the more obvious today (again for historical reasons: in short, owing to the domination of neoliberal globalisation) and which have been pointed out even by theorists on its side. In part three of this article I briefly mention the flaws I consider the most important, referring at the same time to some secondary literature one might turn to if not entirely convinced by my — necessarily — condensed critique of Habermas' position.

Furthermore, pointing out theoretical flaws is not an exclusively

6. To some extent, such is the dialogue which took place in *Historical Materialism* between Deborah Cook and James Gordon Finlayson around the dilemma "Adorno or Habermas?" See Cook, "Critical Stratagems in Adorno and Habermas: Theories of Ideology and the Ideology of Theory," *Historical Materialism* 6 (2000), pp. 67-87, "A Response to Finlayson," in *Historical Materialism* 11, 2 (2003), pp. 189-198, Finlayson, "The Theory of Ideology and the Ideology of Theory: Habermas Contra Adorno," *Historical Materialism* 11, 2 (2003), pp. 165-187. Despite the fact that I sympathize with Cook's more "leftist" perspective, I also agree with some of Finlayson's arguments. In any case, in this debate, Cook comes closer to my own approach by acknowledging, albeit at the end of her articles, certain positive aspects of Habermas' work (see Cook, "Critical Stratagems in Adorno and Habermas," p. 85, "A Response to Finlayson," pp. 197-8), while Finlayson seems to be more convinced that old critical theory has been definitively surpassed.

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scientific or philosophical endeavour. For anyone who believes that theory is always necessarily linked with praxis, theoretical flaws cannot but lead to practical impotence when faced with the challenges presented by the ever deepening global crisis: the domination of neoliberalism in an internationalized capitalist economy, the waging of a number of new imperialist wars under the guise of the "war against terrorism," the increase in police enforcement, the constant violation of the rule of law and personal freedoms for the sake of security, not to mention the constant worsening of the ecological crisis. From this point of view, I do not find unfounded the opinion of a number of leftist intellectuals that Habermas "has become an ideological spokesman for the *status quo*,"[7] a fact which explains his by now obvious inability to give a structural explanation of the global crisis and to think of possible avenues for radical opposition.[8]

Therefore, what we need today, on a theoretical level, is a *determinate negation* of the Habermasian justification of the given, capable of retaining what truth there is in communicative theory, but bringing it under a new theoretical synthesis. As a determinate negation, such a critique cannot, of course, consist in a total (abstract) rejection of communicative theory, but rather in its radicalization toward a more *historical, materialist and dialectical theory*. This is what I mean by the term "reconstruction" in the title of this article. Such a "reconstruction" must undergo a re-appropriation of the critical tradition, especially since there seems to be a need once more for a critical theory that is a *critical theory of global capitalism*, a perspective Habermas left behind (at the latest) in the beginning of '80s. This article, then, is intended to be a step in this direction — of course many more must follow. For the moment, our journey from Habermas to Horkheimer requires us to go back to the critical theory of Horkheimer and to look at it in the light of the deficits of contemporary communicative theory (section 1), and then to point out some of its weaknesses (section 2), in order to see what we can gain from early critical theory which might help with a "materialist reconstruction" of contemporary critical theory (section 3).

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7. Cook, "A Response to Finlayson," *op. cit.*, p. 190.

8. For example, in his latest public interventions in German newspapers, Habermas used ethical and psychological criteria to interpret recent wars waged by the "international community": the war on Yugoslavia in 1999 was morally justified even though it may have been illegal, the war on Afghanistan was "psychologically understandable" (after 9/11) but politically questionable, while the recent war on Iraq was an expression of the arrogance of the Bush administration and for that reason endangers the – until now supposedly unquestioned – "moral authority" of the US.

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From Habermas to Horkheimer...

To truly understand Horkheimer's early critical theory it is necessary to recast its original intention to make productive use of the historicist deconstruction of idealist philosophical foundations, in order to construct a new approach which would take into account the historicality of knowledge, not with the intention to relativize its truths, but rather to open up the prospect of cooperation between philosophical contemplation and the sciences.[9] Throughout the '30s, in a series of articles published in *Zeitschrift fuer Sozialforschung* (the journal of the Institute for Social Research of Frankfurt, which Horkheimer directed from 1931), Horkheimer devoted himself to a multi-fronted battle to deconstruct the modern philosophical and scientific tradition. Horkheimer's historical materialism set out to break with the traditional philosophical thought, replacing its fundamentally speculative stance with a practical self-understanding which would aim at the bridging of the indelible dualisms that characterize the philosophical and scientific tradition.[10]

Apart from the renewal and radicalization of theoretical thought, critical theory also claimed — through the diagnosis of the dialectic necessity of the historical process — to anticipate a new phase of emancipation of human kind from unnecessary constraints. This would be done not by formulating predictions about the future, but by criticizing the established social relations and thereby indirectly projecting the "concrete utopia" of a liberated society — thus contributing to people's enlightenment and providing rational guidance for their liberatory practices. As for Horkheimer's historical materialism, reflections on the constitution of knowledge are inextricably linked with the reflections on the application of knowledge, since critical theory itself wants to embody the "intellectual side of the historical process of proletarian emancipation,"[11] in other words to become the junction at which the subject and object of historical knowledge and development meet. Horkheimer criticizes both idealist metaphysics as

9. Alfons Soellner describes the intellectual climate of the period and its original intentions very well in "Erfahrungs- und Geschichtsabhaengigkeit der Wahrheit – Horkheimers Begruendung der materialistischen Gesellschaftstheorie und Sozialforschung (1929-33)," *Philosophisches Jahrbuch*, 86 (1979), pp. 113-47.

10. Habermas himself characterized Horkheimer's early project as "postmetaphysical," in the sense that it attempts to transcend philosophy with the traditional meaning of metaphysics (as contemporary communicative theory also claims to do) without being exhausted in the empirical sciences. See Habermas, "Remarks on the Development of Horkheimer's Work," in *On Max Horkheimer*, *op. cit.*, p. 50.

11. Horkheimer, "Traditional and Critical Theory" [1937], in *Critical Theory. Selected Essays*, tr. by M.J. O'Connell *et al.* (New York: Seabury Press, 1972), p. 215.

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well as positivist scientism, linking knowledge to its social functions.[12] He put forward a plan for a theory of knowledge which would take the form of holistic social theory and would be able to account for the social construction of the cognitive subject, as well as for the historical construction of the forms of practical mediation between subject and object.[13]

It is such a social theory along with its corresponding theory of knowledge which constitute Horkheimer's "materialism" or "critical theory" in the 1930s, which I will attempt to recast here briefly focusing on the elements which I consider might contribute productively to contemporary discussions.

1) As I have already mentioned, unlike every (scientific or metaphysical) form of "traditional theory," critical theory is characterized by the fact that it is conscious of its relationship with the practical transformation of the world and its dependence upon it. The *practical character* of critical theory is a fundamental principle of Horkheimer's materialism. It is not by accident that, in his attempts to define critical theory, Horkheimer does not merely speak of cognitive processes but of a "human activity which has society itself as its object."[14] Horkheimer identifies two basic types of action, in which the mediation between subject and object is achieved, and to which we can suppose that two different types of knowledge correspond. These are actions which have to do with the rational control of nature, and actions which have to do with the conflicts between human beings. Despite the fact that mathematics and physics (the core of contemporary science) seem to be disciplines detached from human action, they constitute a kind of knowledge which is "conditioned by the increase in humanity's technical capacity," in the same way, this increase is determined in turn by the development of this kind of knowledge.[15] In contrast, philosophical approaches and ideologies which glorify the current social order, as well as critical theory (which questions the

12. The link between knowledge and social processes is already explicit in the introduction to the first issue of the *Zeitschrift fuer Sozialforschung* (Horkheimer, "Notes on Science and the Crisis" [1932], in *Critical Theory*), where Horkheimer sketches the broad outlines of a critique of knowledge which is more or less upheld throughout his work.

13. Concerning Horkheimer's early theory of knowledge, see Gerd-Walter Kuesters, *Der Kritikbegriff der Kritischen Theorie Max Horkheimers* (Frankfurt a.M.: Campus, 1980), pp. 40-4. See also Alfred Schmidt, *Die Kritische Theorie als Geschichtsphilosophie* (Munich: Hanser 1976), pp. 40-7, as well as Honneth's *The Critique of Power*, *op. cit.*, pp. 5-18.

14. Horkheimer, "Traditional and Critical Theory," *op. cit.*, p. 206.

15. Horkheimer, "On the Problem of Truth" [1935], in *Between Philosophy and Social Sciences. Selected Early Writings*, tr. by G.F. Hunter *et al.* (Cambridge: MIT Press, 1993), p. 190.

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same order from the viewpoint of the interest for emancipation from oppression) belong to the kind of knowledge which corresponds to "historical struggles in which conviction itself plays an essential role."[16]

2) With this practical self-understanding, critical theory takes a radically *anti-foundationalist as well as anti-relativist direction.* It is telling that from fairly early on, Horkheimer distanced himself from the view that truth is socio-historically determined, in the way this view is formulated by Karl Mannheim in his sociology of knowledge.[17] Historical materialism views the sociology of knowledge as adopting a speculative and idealistic stance towards truth. More specifically, the neutralization of the concept of ideology leads, in the end, to a relativism which necessarily presumes the point of view of absolute truth. Conversely, for historical materialism, the historicality of reason does not entail the liberal tolerance of equally untrue partial points of view, but rather the choice of the right view which is inseparable from the right praxis.[18]

Historical materialism abandons the idea that thought is autonomous, that it is sovereign and self-justifying, but it does not abandon the idea of truth in general. The truth of the theory itself is judged by its success in guiding humanity's struggle for liberation.[19] A struggle which always leads to new forms of dialectical mediation between subject and object. However, since this dialectic remains incomplete, and the tension

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16. *Ibid.*, p. 190. Also, in Horkheimer's "Traditional and Critical Theory" it is made clear that the sciences are essentially connected with labor practices which reproduce society, whereas metaphysical philosophies and critical theory are connected with social struggles, to the degree that the former lean toward the reproduction of established relations through their justification, while the latter promote the development of social struggles in order to overturn them. In this sense, Honneth is mistaken when he states that "In his analysis of the constitutive conditions of critical theory Horkheimer invokes a concept of social praxis that is more comprehensive than that permitted by his conception of the philosophy of history" (Honneth, *The Critique of Power*, *op. cit.*, p. 15). As we can see from the passages I referred to, Horkheimer thought simultaneously at both of the levels of social praxis which Honneth has in mind (social labor, social struggle), even if Honneth is right that the specific nature of each is not sufficiently elucidated (see *ibid.*, p. 17).

17. See Karl Mannheim, *Ideology and Utopia* [1929], tr. by Louis Wirth, Edward Shils (San Diego: Harcourt Brace Jovanovich, 1985).

18. See the critique of Mannheim in Horkheimer, "A New Concept of Ideology?" [1930], in *Between Philosophy and Social Sciences, op. cit.* See also Kurt Lenk, "Ideologie und Ideologiekritik im Werk Max Horkheimers," in *Max Horkheimer heute*, *op. cit.*, pp. 245-47, Martin Jay, *Marxism and Totality. The Adventures of a Concept from Lukács to Habermas* (Berkeley: University of California Press, 1984), p. 206.

19. For the relationship between truth and social struggle, see Horkheimer, "On the Problem of Truth," *op. cit.*, pp. 192-3, and "The Rationalism Debate in Contemporary Philosophy" [1934], in *Between Philosophy and Social Science*, *op. cit.*, p. 228.

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between subject and object, concept and reality, remains insoluble, the absolute point of view will always be impossible for us as finite human beings.[20] We will be left only with our contingent, historically determined "partial" truths, which are "verified" in the context of social practices of controlling nature and of social struggles for emancipation. For want of non-historical and absolute criteria, however, we have no reason to call these truths "relative." Which is why, an incomplete materialist dialectic simultaneously avoids both *relativism and foundationalism.*[21]

The truth of dialectical thought depends, in the end, on its ability to contribute to the emergence of a radically new, emancipated social order, in other words, to contribute to the application of a new principle of social organization which would drastically reduce human humiliation and enslavement. This is because the right theory is a "moment" of a process which *ruptures* the given. It is a part of the already existing freedom which is struggling to actualize a potentiality under the conditions of alienation and enslavement. Although this potentiality is rooted in the existent, it constitutes a qualitative *transcendence* of it.[22] As Horkheimer himself notes, for open dialectical thought "the decision on particular truths depends on still uncompleted historical processes."[23] Because of this, holistic thought does not view the commitment to a particular interest as a "necessary evil," but rather as a positive factor in the theoretical enterprise. In the dialectical view, right theory means right willing.[24] Knowledge and interest, theory and practice, constitute one unity.[25]

3) A third fundamental aspect of Horkheimer's materialism, which sets him apart from various Marxist "orthodoxies," is the revaluation of

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20. As Horkheimer notes, "Knowledge of the totality is a self-contradictory concept. Conciousness of one's own conditionedness, which distinguishes materialist thought, is identical in the current state of theory with an understanding of the social conditionedness of individuals. Just as the notion of the autonomy and self-sufficiency of thought is intrinsic to the concept of the closed, monadic individual, the notion that every individual is caught up in the overall social life process belongs to the materialist view of the finitude of thought." Horkheimer, "The Rationalism Debate in Contemporary Philosophy," *op. cit.*, p. 224.

21. See the formulations which indicate the by-passing of this dilemma through open dialectic in Horkheimer, "On the Problem of Truth," *op. cit.*, p. 193.

22. This is why the term "tendency" is central to dialectical thought, whereas it must, of course, be omitted from positivism. See Horkheimer, "The Latest Attack on Metaphysics" [1937], in *Critical Theory, op. cit.*, pp. 149-50.

23. Horkheimer, "On the Problem of Truth," *op. cit.*, p. 203.

24. "Right thinking depends as much on right willing as right willing on right thinking." Horkheimer, "The Latest Attack on Metaphysics," *op. cit.*, p. 162.

25. This view supports Horkheimer's criticism of positivist "freedom from value judgements." See *ibid.*, pp. 163-5.

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the significance of human happiness for social philosophy. For Horkheimer, the emancipation of humanity is inseparable from the formation of a social order which would better satisfy the "material" needs of each individual, in the sense that it would not sacrifice their satisfaction in favour of an idealized "common good." Both optimistic and pessimistic modern anthropological approaches share a common disdain for human drives and desires as well as the same orientation towards repressing individual claims to happiness. So, the taming of the destructive forms this suppressed impulse for happiness takes in moments of social rebellion and "terrorism" presupposes the radical critique of the moral condemnation of egoism, by theoretically revealing the fact that morality obscures the true *social causes* of misery and "nihilism." An essential element of any critical theory, then, must be the defence of a certain kind of "individualism," which must find its place in a *liberatory form of ethical life*.[26]

The emphasis Horkheimer places on the idea that people have the intrinsic tendency to seek their own happiness can easily lead to the misinterpretation that "happiness" constitutes the naturalistic foundation of his critical theory.[27] However, contrary to whatever may be the case for a naive hedonism or utilitarianism, for Horkheimer happiness is not to be identified with pleasure, however closely the two may be related.[28] "The structure of needs in various forms of society, in particular social groups, and in individuals is changeable and can be explained only in relation to a specific time and a concrete situation."[29] Happiness, then, is not something directly given, it is mediated by the conditions which determine "that which gives humans pleasure," in other words, it is connected with a common understanding of the good. This is why, in view of the mass

26. It is this criticism of bourgeois moral philosophy which inspires Horkheimer's analysis in "Egoism and Freedom Movements: On the Anthropology of the Bourgeois Era" [1936], in *Between Philosophy and Social Science*, and "Materialism and Morality," in *ibid.*

27. E.g. in "Materialism and Metaphysics" [1932], in *Critical Theory*, *op. cit.*, p. 44, Horkheimer notes that for materialists it was always obvious that "man's striving for happiness is to be recognized as a natural fact requiring no justification." Of course, this "recognition" refers simply to the fact that everyone seeks their own happiness, but not the forms this seeking can take, which may be perverted. What interests Horkheimer is not finding a "natural foundation" for an eudaimonistic ethical theory, a foundation he considered non-existent, but finding arguments against the tendency to consider happiness a subordinate goal of mankind, a tendency present in a major part of the philosophical tradition.

28. See e.g. Horkheimer, "Materialism and Metaphysics," *op. cit.*, pp. 44-5. Marcuse's critique moves in a similar direction. See Marcuse, "Zur Kritik des Hedonismus," *Zeitschrift fuer Sozialforschung*, VII, 1/2 (1938), pp. 55-87.

29. Horkheimer, "Materialism and Metaphysics," *op. cit.*, p. 44.

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denial of individual claims to happiness, the only authentic promise of happiness is inevitably tied up with the rational shaping of these conditions. For the materialist theory and action, it is obvious that "chance and death rule over life . . . precisely to the extent that conscious beings are determined by blind nature, and to the extent that the realm of freedom is limited by that of necessity. It is therefore crucial that the social whole not just apparently but actually come under the control of its parts. At the same time, these parts will continue to be dominated to a certain degree by the whole, for what they create must in turn influence them."[30] Therefore, "happiness" and "freedom" are interrelated concepts, since the satisfaction of individual claims to happiness is impossible without the participation of each individual in the "control of the social whole." For Horkheimer, it is only this kind of control which can bridge the gap between individual interests and the common good, a gap which is perpetuated by bourgeois moral philosophy.[31]

4) Finally, already in his opening speech as the director of the Institute for Social Research of Frankfurt, Horkheimer identified as the fundamental duty of the Institute to research "the connection between the economic life of society, the psychical development of individuals, and the changes in the realm of culture in the narrower sense. . . . "[32] Horkheimer considered the major flaw of abstract (idealistic or positivist) answers to this question as being the absolutization of one of these fields, to which all the rest are then reduced. Marxist economism also belongs to this category of flawed reductions. The antidote to idealism as well as to materialist economism is, on the one hand, the revival of *dialectic holism,* and on the other, the investigation of the "psychical links,"[33] that connect the realm of economic life with the realm of culture.

It is worth pointing out that Horkheimer's holism does not merely consist in a speculative conception of the social and historical whole, but in the adoption of a certain methodology concerning the investigation of

30. Horkheimer, "The Rationalism Debate in Contemporary Philosophy," *op. cit.*, pp. 251-2.

31. Herbert Schnaedelbach shows that the critique of universal, rationalist bourgeois ethics is based on a materialist conception of the good, which is inspired by ideas of Schopenhauer and Nietzsche. See Schnaedelbach, "Max Horkheimer and the Moral Philosophy of German Idealism," in *On Max Horkheimer*, *op. cit.*, pp. 287-90.

32. Max Horkheimer, "The Present Situation of Social Philosophy and the Tasks of an Institute for Social Research" [1931], in *Between Philosophy and Social Sciences*, *op. cit.*, p. 11.

33. *Ibid.*, p. 12.

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social processes.[34] This has to do with the renowned interdependency of philosophy and specialized science within the framework of a dialectic between representation (*Darstellung*) and research (*Forschung*), which Horkheimer takes over from Marx. According to this methodological schema, critical theory is to occupy itself with empirical research, of the kind typically carried out by the conventional social sciences. Nevertheless, the findings of such research would then be incorporated into a wider framework of presentation of a theoretical-holistic perspective, which they would "confirm." This representation would remain open though to revisions based on new findings.[35] The dialectic between representation and research constitutes a methodological model which emerges to be the only suitable one for the study of "live objects" or processes which have a holistic character. The dialectic between representation and research aims in this way to transcend the static nature of empirical descriptions which absolutize the analytical, abstract concepts and their logical relations, thus giving us a complex picture of a dynamically developing whole of dialectically interdependent "moments."[36]

Some Critical Notes on Horkheimer's Materialism

Of course, as recent studies have shown, Horkheimer's materialism contains a number of conceptual shortcomings as well as internal contradictions. Unfortunately for the further development of his early program,

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34. Michael Korthals describes very well the differences between Horkheimer and the speculative dialectical holism of Lukács in "Die kritische Gesellschaftstheorie des fruehen Horkheimer," *Zeitschrift fuer Soziologie* 13, 4 (1985), pp. 315-329. See also Jay, *Marxism and Totality, op. cit.*, pp. 197-8. The methodological character of Horkheimer's holism is emphasized by Kuesters, *Der Kritikbegriff der Kritischen Theorie Max Horkheimers*, *op. cit.*, pp. 65-7, and Carl-Friedrich Geyer, *Kritische Theorie. Max Horkheimer und Theodor Adorno* (Munich: Alber, 1982), pp. 21-2.

35. As Horkheimer notes, "chaotic specialization will not be overcome by way of bad syntheses of specialized research results, just as unbiased empirical research will not come about by attempting to reduce its theoretical element to nothing. Rather, this situation can be overcome to the extent that philosophy – as a theoretical undertaking oriented to the general, the "essential" – is capable of giving particular studies animating impulses, and at the same time remains open enough to let itself be influenced and changed by these concrete studies." Horkheimer, "The Present Situation of Social Philosophy and the Tasks of an Institute of Social Research," *op. cit.*, p. 9. The anti-idealistic as well as anti-positivist nature of this methodological holism is obvious. "Experience" is always dependent on "theory," which, in turn, should always subject itself to "empirical control." The relationship between the two is not one-way, but dialectic.

36. See Horkheimer's observations in Horkheimer, "The Rationalism Debate in Contemporary Philosophy," *op. cit.*, pp. 236-7, "On the Problem of Truth," *op. cit.*, pp. 208-9, and "The Latest Attack on Metaphysics," *op. cit.*, pp. 162-3.

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the specific nature of the practice of "social struggle," which is so closely linked to critical theory itself, remained obscure and unclarified.[37] It was this theoretical deficit which eventually led to a return, at certain points, to the very philosophy of the subject which Horkheimer tried hard to distance himself from. This kind of philosophical orientation is implicit in passages where Horkheimer talks about emancipated humanity's "unitary consciousness," which regulates its life according to a "rational plan," thus harmonizing freedom with necessity, in this way essentially dissolving the moral and political dilemmas which presuppose the lack of exactly this kind of harmony. It is at such points that it becomes clear that the ideal of a "self-conscious humanity" entails the metaphysical postulation of a gigantic, entirely transparent and rational collective subject.[38]

This utopian vision of a future state of total positive freedom would not bother us so much, perhaps, if its metaphysical presumptions did not enter into the way we interpret the present and the existing possibilities to promote emancipatory changes through political action. The metaphysical utopianism evident in Horkheimer's thought is ultimately linked with a metaphysics of the "unitary collective subject's" revolutionary action, and with the conception that the central planning of the economy is the only way to attain the post-revolutionary harmonious coordination of the whole with its parts.[39] These are, of course, two ideas which are among

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37. This omission has been pointed out by a number of writers: Kuesters, *Der Kritikbegriff der Krtischen Theorie Max Horkheimers, op. cit.*, pp. 29 and 41-2; Seyla Benhabib, *Critique, Norm and Utopia. A Study of the Foundations of Critical Theory* (New York: Columbia University Press, 1986), pp. 156-7; and especially Honneth, *The Critique of Power, op. cit.*, pp. 17-8.

38. "Today in the transition from the present form of society to a future one, mankind will for the fist time be a *conscious subject* and actively determine its own way of life." (Horkheimer, "Traditional and Critical Theory," *op. cit.*, p. 233, my italics). And this way of life could then be described as "a state of affairs in which there will be no exploitation or oppression, in which an all-embracing subject, namely *self-aware mankind*, exists ..." (*ibid.*, p. 241, my italics).

39. Despite the fact that the idea of a violent break with the existent is relativized when Horkheimer refers to the process of post-revolutionary "transition," there remains the necessity of the revolutionary abolition of the "primacy of economy," as well as the final goal toward which this "transition" moves, namely the self-conscious community of cooperating human beings. See Horkheimer, "Postscript" [1937], in *Critical Theory, op. cit.*, pp. 248-51. On the other hand, Horkheimer claims that in contemporary society, "freedom" essentially means "a rational planning of the economy." See Horkheimer, "Materialism and Morality," *op. cit.*, p. 37. If so, however, political issues tend to be converted into issues of rational-technical administration. See Benhabib, "Zur Dialektik von Glueck und Vernunft. Max Horkheimers fruehe Moralphilosophie," in *Die Frankfurter Schule und die Folgen*, ed. by A. Honneth, A. Wellmer (Berlin: de Gruyter, 1986), pp. 135-6.

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the most essential elements of classical Marxist thought, which Horkheimer did not question during the 1930s. The idea that freedom is the feature of a future state of affairs where our fate is under rational control, (a state of affairs which we are supposed to be able to reach at some point) comes into conflict with the general anti-idealistic and anti-harmonistic direction of Horkheimer's early work and betrays an unfounded trust in the emancipatory force of instrumental reason.

Such conceptual flaws in Horkheimer's materialism are likely to have set limits on his attempt to transcend orthodox Marxist economism through the construction of a "materialist theory of culture." Of course, interdisciplinary cooperation in the field of "social research," having as its goal the construction of a holistic "*theory of the contemporary age*," remains, even today, exceptionally enterprising. The methodological principle of dialectical intertwining of representation and research, makes Horkheimer's "interdisciplinary materialism" one of the most refined projects of interdisciplinary research. Nevertheless, the application of this project suffers from lack of epistemological critique about the internal structuring of the scientific branches which would make up the conception of the social whole. The dialectic between representation and research ends up resembling a great intellectual effort to coordinate the unrelated findings of specialized studies, under the guidance of theoretically founded concepts.

Such an undertaking, however, seems to ignore the fact that the findings of these specialized studies will already be pre-determined to a certain degree by a specific conceptual framework. So it is not sufficient to synthesize them retrospectively from a holistic perspective; what is needed is that they previously undergo epistemological critique.[40] Adorno himself pointed out this flaw in Horkheimer's initial project very early on, offering his own "negative dialectics" as the most suitable means to provide a radical epistemological critique of positivism.[41] Adorno formulated the most complete development of such a dialectic

40. Kuesters analyzes this problem in *Der Kritikbegriff der Kritischen Theorie Max Horkheimers, op. cit.*, pp. 50-1 and 56. See also the remarks by Wolfgang Bonss and Norbert Schindler, "Kritische Theorie als interdisziplinaerer Materialismus," in *Sozialforschung als Kritik. Zum sozialwissenschaftlichen Potential der Kritischen Theorie,* ed. by W. Bonss, A. Honneth (Frankfurt a.M.: Suhrkamp, 1982), pp. 56-7 and 59-60. See also the criticism of the program of interdisciplinary research in Dubiel, *Wissenschaftsorganisation und politische Erfahrung, op. cit.*, pp. 174 and 206-7.

41. See Adorno's critical observations in the protocol of the discussions on dialectics he had with Horkheimer in 1939, in Horkheimer, "Diskussionen ueber die Differenz zwischen Positivismus und materialistischer Dialektik" [1939], in *Gesammelte Schriften*, Vol. 12 (Frankfurt a.M.: Fischer 1985).

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which aimed to "break the compulsion to achieve identity"[42] in *Negative Dialectics* – a work which we will have to appeal to in order to find the means for the epistemological critique of the incorporation of positivist elements in Horkheimer's early critical theory (as well as for the critique of analogous choices made by Habermas, e.g. the use of systems theory).

Be that as it may, since this critique did not take place, the dominance of a functionalist type of thought can be discerned in the economic analyses as well as the socio-psychological presuppositions underlying the studies on authority carried out by the Institute for Social Research during the 1930s.[43] This dominance certainly played a role in the crystallization of a general theory of contemporary society, which is based "in the last analysis" on the economistic-functionalist explanatory model of social processes. Since the contradictions of the economic system did not lead to the conscious undertaking of political action on the part of the suppressed (as the classic theory of revolution had predicted it would), the only way to "salvage" the Marxist "economic theory of history" was to recognize the "relatively autonomous" reactive role of "superstructure." The "interference" of superstructure, which embodies the bourgeois forms of authority, would explain the "postponement of the revolution" and the consequent upholding of the distance between the existent and the possible, between the real and the rational.[44]

However, the dominance of the functionalist model of explanation for social processes could not but lead to the exclusion of any possibility of bringing about the autonomous, liberatory action which would transcend "functional determinations," constructing that moment of "earthly transcendence," thanks to which history could be something other than simply

42. Theodor W. Adorno, *Negative Dialectics* [1966], tr. by B. Ashton (New York: Continuum, 1973), p. 157.

43. I cannot refer to this matter in detail. Concerning economics (the specialist in Horkheimer's circle was F. Pollock), see Giacomo Marramao, "Political Economy and Critical Theory," in *Telos* 24 (Summer, 1975), pp. 56-80. Concerning social psychology (the specialist in the circle was E. Fromm) see Wolfgang Bonss, "Psychoanalyse als Wissenschaft und Kritik. Zur Freudrezeption der Kritischen Theorie," in *Sozialforschung als Kritik*, *op. cit.*, pp. 379-92.

44. Horkheimer follows this direction in his study in the "theoretical part" of the research on authority, in which the Institute for Social Research was engaged during the 30s, see Horkheimer, "Authority and Family," in *Critical Theory*, *op. cit.* Horkheimer focused on the analysis of the "lack of synchronization" between the social structure and its justification. See Dubiel, "Die Aufhebung des Ueberbaus. Zur Interpretation der Kultur in der Kritischen Theorie," in *Sozialforschung als Kritik*, *op. cit.*, p. 467, and his *Wissenschaftsorganisation und politische Erfahrung*, *op. cit.*, p. 192; Bonss and Schindler, "Kritische Theorie und interdisziplinaerer Materialismus," *op. cit.*, p. 48.

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the "eternal repetition" of the same.[45] This narrowing in theoretical perspective made the insistence on the classical model of "immanent critique" problematic, prompting critical theory to go from the determinate negation of bourgeois power relations to the abstract negation of domination in general.

In the beginning of the 1940s, Horkheimer formulated the hypothesis that capitalism was entering a new phase, the phase of the "authoritarian state," in which the obliteration of independent economic activity goes hand in hand with the constitution of an authoritarian political power, and a society of isolated and weak conformists.[46] This idea is only one step away from the future radicalization of critical theory, via the thought that the "authoritarian state" is nothing but the catastrophic upshot of the "dialectic of the enlightenment," in other words, it is nothing but the inevitable telos of the cultural process as a whole. In this way, we go from the analysis of a particular capitalistic society to a pessimistic philosophy of history, which views history as the one-sided development of instrumental reason which inevitably leads to a culmination of oppression and domination of nature and society.[47] One can thus find in Horkheimer's early work the beginnings of the formation of the classical historico-philosophical position, which Horkheimer formulated together with Adorno in the Dialectic of Enlightenment, with all its theoretical aporias and practical impasses, which Habermas' communicative theory set out to transcend.

. . . *And from Horkheimer Back to Habermas*

Since I cannot give an comprehensive account of critical theory here, I shall begin the voyage back to the present by formulating the position that Habermas' attempts to overcome the aporias of *Dialectic of Enlightenment* and to reconstruct critical theory (once he had accomplished a definitive turning away from the philosophy of the subject toward a philosophy of inter-subjectivity) rejuvenated critical thought, restored its scientific credibility and provided it with new possibilities to contribute to the process of social emancipation.[48] For example, the emphasis on theory of communication created an opening for productive dialogue with other important currents in 20th century philosophy, such as analytical philosophy of language,

45. See Honneth's penetrating criticism concerning this point in *Critique of Power*, *op. cit.*, pp. 25-31.

46. See Horkheimer, "The Authoritarian State" [1942], in *The Essential Frankfurt School Reader*, ed. by Andrew Arato and Eike Gebhardt (New York: Continuum, 1982).

47. See Horkheimer and Adorno, *Dialectic of Enlightenment*.

48. I critically expounded this attempt in *Juergen Habermas: The Foundations of Reason and Critical Social Theory* (in Greek, Athens: Polis, 1996).

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phenomenology and hermeneutics. On the other hand, it was this choice that made possible the opening up of the theoretical perspective toward the post-war phenomena of the construction of "democratic social states" within which a process of (of course questionable) "communicative rationalization" was gradually developed through the expansion of individualization and processes of dialogical opinion formation — phenomena which classical critical theory tended to interpret solely on the basis of the concepts of mass culture and the administrative control of society. The communicative turn, then, allowed the (of course debatable) detection of a field of practical reason, which one could at least hope would be able to transcend the closed circle of instrumental rationality and domination. Last but not least, this field could be connected with the dynamic of the "new social movements," which became the vehicle of social protest and the claims for democratization after 1968.

Nevertheless, at the latest in the beginning of the 1980s Habermas formulated a theory of modernity and modern democracy, focusing not so much on the subversive potential of communicative reason as on the justification of existent social structures as immutable and necessary. Although there is no shortage of references to the "potential for transcendence" which communicative processes possess, these references become all the more decorative in a theory which ends up essentially as a justification of the given. There are important theoretical reasons for this. Already in the 1970s, the founding of communicative reason was based on a Kantian type quasi-transcendental theory of communication which contradicted a fundamental condition of critical theory; namely the awareness of the historicality of every human undertaking. Later, once "history" had been transformed to the field of the "particular" and "contingent," practical reason had to be stripped of every substance and to aim at universality which could — supposedly — be ensured only by a formalistic approach. Because of this though, critical theory lost the ability it had had since Marx's time to criticize the *content* of social life. Finally, adopting systems theory to explain economy and bureaucracy, Habermas ended up at the ethical-political neutralization of capitalist economic structures and of the modern state, considering them as — at the most — "necessary evils."

Before we look at these points in detail and examine them in contrast with Horkheimer's position in the 1930s, it is perhaps necessary to make one more observation. For a supporter of Habermas there is no longer any point in contrasting him with Horkheimer since communicative theory was supposed to have "transcended" old critical theory once and for all.

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In his critique of the old Frankfurt school, which coincided with the first complete formulation of his theory in the beginning of the 1980s, Habermas pointed out the impasse to which a totalizing critique of reason - like that found in the *Dialectic of Enlightenment* — would lead. He related this theory to Horkheimer and Adorno's disappointment with the historical events taking place at the time (the rise of Nazism and Stalinism), concluding that there was a need to radically transform critical theory into something closer to his own viewpoint.[49]

However, it is not by chance that Habermas' critique focuses on the two theorists" most pessimistic work; the *Dialectic of Enlightenment*. In my opinion, it is true that the "dialectical anthropology" which the book aims to formulate exaggerates the close correlation between cultural processes in general and the principle of domination to such an extent that it becomes unclear on what an emancipatory theory and praxis could be based. Nevertheless, accepting this criticism of the *Dialectic of Enlightenment* does in no way mean that the only alternative solution open to us is the moderate Habermasian diagnosis of modernity. It is certain that Horkheimer's early critical theory consisted in the immanent critique of modern capitalist society. I hope, in the future, to set out a way of reading Adorno's post-war work which exempts it from accusations of adherence to an eschatological philosophy of reconciliation,[50] thus making it fruitful for providing an immanent critique of modern capitalist "liberal democracies."

But let us return to our main topic to see whether Horkheimer's initial program might include useful elements for a *reconstruction and radicalization of contemporary critical theory,* in view of new theoretical and practical duties dictated by our contemporary situation. Let us now look at the three major points of a possible "*materialist reconstruction*" of the communicative paradigm based on the presentation of Horkheimer's early work I gave in section (1) of this paper:

1) I will take the most abstract first. It has to do with the dilemma of foundationalism and relativism. Placing the emancipatory interest which motivates critical theory on an extraordinarily high level of abstraction,

49. Habermas' critique of the old school of Frankfurt already begins in his early works (e.g. "Technology and Science as 'Ideology'"), but it is developed fully in Habermas, *Theory of Communicative Action*, Vol. 1, *op. cit.*, pp. 366-99, as well as in *The Philosophical Discourse of Modernity,* tr. by F.G. Lawrence (Cambridge: MIT Press, 1987), pp. 106-30. See also Peter U. Hohendahl, "The Dialectic of Enlightenment Revisited: Habermas' Critique of the Frankfurt School," *New German Critique* 35 (Spring/Summer 1985), pp. 3-26.

50. This was the criticism made from a Habermasian point of view by Albrecht Wellmer. ("Metaphysics at the Moment of Its Fall," in *Endgames. The Irreconcilable Nature of Modernity*, tr. by D. Midgley (Cambridge: MIT Press, 1998), pp. 183-91.

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Habermas occupied himself at the beginning of the 1970s with attempting to construct a transcendental argument for the foundation (or justification) of the concept of communicative reason, which could then be used as criteria for his social critique. However, the need for philosophical or scientific "purity" which accompanies the development of such foundational arguments, led him directly to the very dilemmas which the early critical theory of Horkheimer had managed to avoid.[51] The contrasts between "rationalism and skepticism" in the 1980s,[52] or between "formalism and neo-Aristotelianism" or "universalist liberalism and particularist communitarianism" of the 1980s and 1990s,[53] could not but lead to critical theory's even deeper retreat into formalism, with serious consequences for the critical potential of later communicative theory.

Placing all the weight on defining the formal conditions of the "dialogical procedure," Habermas' critical theory is forced to remain silent on all those "substantial presuppositions" of real, not just ideal, processes of practical-political "deliberation." "Communicative rationality" appears in this way to be an abstract structure, which can only accidentally (or competitively) be related to the realm of real history. Things might be different if we started out from the good old unity of form and content, knowledge and interest, reason and history, theory and praxis.[54] Horkheimer's *anti-*

51. As is well known, Habermas justifies the central concept of communicative reason through the prism of a "universal pragmatics" of communication and its corresponding theory of truth. See Habermas, "What is Universal Pragmatics?", in *Communication and the Evolution of Society,* and "Wahrheitstheorien," in *Vorstudien und Ergaenzungen zur Theorie des kommunikativen Handelns* (Frankfurt a.M.: Suhrkamp, 1984). The universality of communicative reason was supported from the beginning by the supposed independence of communicative theory from any specific socio-historical perspective. The bibliography concerning this issue is vast. Thomas McCarthy describes Habermas' dilemma with particular clarity (see McCarthy, "Rationality and Relativism: Habermas's Overcoming of Hermeneutics," in *Habermas: Critical Debates*, ed. J.B. Thompson and D. Held [London: Macmillan, 1982]): having accepted the central importance of hermeneutics for social science, Habermas was forced to move away from the "historical" and "politically committed" positions of the 1960s, and turn in a more intensely "theoretical" direction, in order to avoid relativism.

52. The contrast with scepticism lies at the heart of Habermas, "Discourse Ethics: Notes on a Programm of Philosophical Justification," in *Moral Conciousness and Communicative Action, op. cit.*

53. Habermas' answers to the communitarians can be found in the texts in Habermas, *Justification and Application: Remarks on Discourse Ethics*, tr. by C.P. Cronin (Cambridge: MIT Press, 1993).

54. Within the framework of communicative theory – having accepted the "substantial" and "cultural presuppositions" of dialogical practice and successfully incorporating ideas from Richard Rorty and from hermeneutics – Wellmer undertakes an "ethnocentric justification" of dialogue and of "liberal democratic culture." See Wellmer, "Truth, Contingency, and Modernity," in *Endgames, op. cit.* For a similar reading of communicative theory see also Rolf Zimmermann, *Utopie-Rationalitaet-Politik* (Freiburg/Munich: Alber, 1985), pp. 332-45.

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foundationalism, as we have seen, moves in this direction. With the radical perspective of a theory on the contemporary socio-historical situation and the possibilities it contains, a theory rooted in emancipatory social practice, Horkheimer attempts — as we have seen — to leave behind the classical dilemmas of "traditional theory" and to pave the way forward to a non-metaphysical thought. The kind of thought one could place beyond metaphysics and scientism, as well as beyond foundationalism and relativism.[55]

Of course, even though it is a reasonable wish to find a way beyond metaphysics and scientism, at this point, we can no longer make do with the concepts Horkheimer used in the 1930s. Horkheimer believed that metaphysics could and had to be transcended through the "realization of bourgeois ideals" and, as a good Marxist, he thought that the social force which would make this happen already existed; in the form of the proletariat — even if the proletariat was not at that stage willing to exercise its historic role. However, after revolutionary expectations had been crushed, it was not possible then, as it is not today, to uphold the same constant faith, at least for those who do not lean toward millenarianism. Critical theory, then, is in need of another kind of support in its claim to provide radical transcendence, a kind of support which should not be metaphysical and therefore ideological.

Recent research has undertaken the task of formulating an answer to this problem by means of developing Adorno's reflections on the impossibility of metaphysical reconciliation in the modern world, and on the possibility of "metaphysical experience" without recourse to an origin or a first principle. A metaphysical experience, which is based on the recognition of human finitude, of the non-identical of death which discloses the finite life

55. Thus Horkheimer meets, with a materialist approach, the thought of those who wish to incorporate the anti-foundationalism of hermeneutic philosophy into contemporary critical theory. See e.g. Richard J. Bernstein, *Beyond Objectivism and Relativism: Science, Hermeneutics and Praxis* (Philadelphia: University of Pennsylvania Press, 1991). Of course, Habermas himself would not accept this characterization of his theory as foundationalist, since he distanced himself from the very beginning from the foundationalism of Karl-Otto Apel (see e.g. Apel, "Fallibilismus, Konsenstheorie der Wahrheit und Letztbegruendung," in *Philosophie und Begruendung*, ed. Forum fuer Philosophie Bad Homburg [Frankfurt a.M.: Suhrkamp, 1987]). See Habermas, "A Reply," in *Communicative Action. Essays on Juergen Habermas's The Theory of Communicative Action*, ed. by A. Honneth and H. Joas (Cambridge: MIT Press, 1991), pp. 230-3. However, from the point of view of a staunch anti-foundationalist, the Apel-Habermas controversy over the correct understanding of founding communicative reason seems nothing but a play with words. See e.g. Apel, "Normatively Grounding 'Critical Theory' through Recourse to the Lifeworld?" in *Philosophical Interventions in the Unfinished Project of Enlightenment*, ed. by A. Honneth *et al.* (Cambridge: MIT Press, 1992), and Habermas, *Justification and Application*, *op. cit.*, pp. 76-88).

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as unreconciled thus suggesting a possibility and a moment of transcendence.[56] I would like to point out that such a line of thought is not in principle incompatible with the anti-metaphysical orientation of Horkheimer's early work, for whom, as I mentioned above, the recognition of human finitude and historicity provided the only basis for a non-reified, critical consciousness and practice. The concept of "metaphysical experience" could give new strength and new content to a materialist critique of traditional metaphysics in our contemporary historical juncture. Unfortunately, a detailed evaluation of this possibility would go beyond the scope of this paper.

2) The second point has to do with the revaluation of the significance which claims to "individual happiness" have for social philosophy. Horkheimer thought of this eudaimonistic element in a new political form of ethical life as an antithesis to authoritarian and suppressive instances of the "anthropology in the bourgeois age." Indeed, a critical conception of the future possibilities for social liberation would have to assign a central role to the "egoism of individual happiness," bearing in mind that "individual happiness" is thought of as dialectically mediated with the "common good." Nevertheless, seeing as these mediations cannot ever be absolute without becoming ideological, it is clear that there will always remain a tension between the "common good" and the "self-reliant particularity," whose respect must be one of the central principles of a developed democratic society. Horkheimer's thinking on this is completely consistent with Adorno's negativism and with the defence of the non-identical or the particular against the violence of a false universal.

This way of understanding the relationship between the collective and the individual is superior to the Habermasian conception of the relationship between public autonomy and individual rights. Habermas links communicative rationality with the rationality of law as a product of a dialogical legislative process. He goes on to found the "system of rights" in the idea that individual rights to freedom and political rights to democratic participation are both necessary conditions of the democratic process of opinion and will formation. Thus, individual rights are a part of the political embodiment of the structures of the common "communicative rationality."[57] In contrast, Horkheimer places a special importance on individual freedom

56. See Ståle R.S. Finke, "Adorno and the Experience of Metaphysics," *Philosophy and Social Criticism* 25, 6 (1999), pp. 105-126, 113-20; Espen Hammer, "Adorno and Extreme Evil," *Philosophy and Social Criticism* 26, 4 (2000), pp. 75-93, 81-5, Jay M. Bernstein, *Adorno. Disenchantment and Ethics* (Cambridge: Cambridge University Press, 2001), pp. 415-56.

57. See Habermas, *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*, tr. by W. Rehg (Cambridge: Polity Press, 1996).

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(an importance independent from the positive collective freedom) which it must have if individual freedom is ever going to be genuine freedom to individually deviate from and disagree with the common "rationality" and socially determined values.[58] The upholding of an individualistic claim can thus have a critical aspect, expressing reservations about a possible ideological and suppressive instrumentalization of universal principles and ideas.

Further, Horkheimer's central idea concerning the critical potential egoistic individual claims may hide, refers to a necessary "materialist" element, which is missing from Habermasian critical theory. Since, remaining consistent with its formalistic orientation, the latter limits the jurisdiction of its "rational reconstructions" to the "universal conditions" of processes of dialogical control over claims to normative validity. On the level of political philosophy, this means a limitation on the founding of the system of rights to individual freedom as a way of ensuring the formal conditions of a "deliberative political process." All the issues concerning "substance," "social values," "culturally interpreted needs" and so on, in other words all the issues concerning the "content" of social relations are yet to undergo negotiation in "real dialogues" between members of society.[59] In this way, moral and political theory are limited to the level of the "right," the level of "formal justice," leaving aside questions of the good life, the definition of the "common good," and the metering out of "social justice," all prey to the contingent distribution of social power.[60]

58. Albrecht Wellmer stresses the weaknesses of attempting to reduce individual freedom to "rationality" (see Wellmer, "Models of Freedom in the Modern World," *The Philosophical Forum*, XXI, 1-2 (1989-90): 227-252, pp. 241-7), placing the right of particularity in the wider framework of a 'democratic ethical life.'

59. This formalistic orientation which understates the ethical and philosophical importance of issues concerning the good life and the "evaluative content" of social life is already obvious in Habermas, "Discourse Ethics: Notes on a Program of Philosophical Justification," *op. cit.*, pp. 102-9, as well as in *Justification and Application.*

60. Many commentators have criticized Habermas' distinction between "right" and "good," and critical theory's preoccupation with the former. From the point of view of communitarianism, see Charles Taylor, "Language and Society," in *Communicative Action,* from the point of view of psychoanalysis, see Joel Whitebook, "Reason and Happiness: Some Psychoanalytic Themes in Critical Theory," in *Habermas and Modernity*, ed. by R.J. Bernstein (Cambridge: Polity Press, 1985), for a feminist reading see Seyla Benhabib, "The Utopian Dimension in Communicative Ethics," in *New German Critique* 35 (Spring/Summer 1985), pp. 83-96, and from the point of view of old critical theory see Gerhard Schweppenhaeuser, "Die 'kommunikativ verfluessigte Moral.' Zur Diskursethik bei Habermas," in *Unkritische Theorie. Gegen Habermas*, ed. by G. Bolte (Lueneburg: zu Klampen, 1989), pp. 132-6. The attempt to turn away from Habermasian formalism inspires Honneth's turn towards a theory of recognition. See Honneth, "Pathologien des Sozialen. Tradition und Aktualitaet der Sozialphilosophie," in *Das Andere der Gerechtigkeit* (Frankfurt a.M.: Suhrkamp, 2000), pp. 66-9, and in reference to the tradition of critical theory see Honneth, "The Social Dynamics of Disrespect," *Constellations* 1, 2 (1994), pp. 255-269.

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In reality, however, we want individual as well as political freedom in order to do something, while this "something" in turn influences our positive freedom.[61] Repressing this interdependence in favour of liberal theoretical modesty, the theorist no longer has any criteria at his disposal by which to judge the phantasmagoria of "social dialogue," which dominates contemporary political life, camouflaging situations of distorted communication between tragically unequal speakers.[62] The critical theory of "deliberative politics" obviously retreats from Marx, forgetting the fact that "material power relations" always tend to determine the formal relations of equality and freedom in the framework of a political democracy. Against such a voluntary neutering of critical theory, Horkheimer remained aware of the fact that even a historical, incomplete concept of reason must be in a position to bridge the contradictions between right and good, duty and happiness, universal rules and human needs, knowledge and interest, formal and social justice in a wider concept of ethical life.[63] On the other hand, Horkheimer, as well as Adorno of course, knew very well that such a concept of ethical life could not be positive without itself succumbing to ideology. Critical theory cannot — and need not — achieve anything other than its negative approach, by criticising and denouncing the social circumstances which cancel the possibility of an emancipated form of ethical life.[64]

3) It remains for us to examine how the philosophical benefits of such a materialist reconstruction of communicative theory could be developed on the level of social and political theory. The reconstruction of old critical theory after Habermas' turn towards the philosophy of intersubjectivity had as its consequence the radical restructuring of classical Horkheimerian holism. I have already pointed out that, due to its specific

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61. See Cornelius Castoriadis' criticism of Habermas in Castoriadis, "Democracy as Procedure and Democracy as Regime," *Constellations*, 4, 1 (1997), pp. 1-18.

62. This was the point of the criticism I made of the pocedural theory of democracy in Kavoulakos, "Constitutional State and Democracy. On Juergen Habermas's Between Facts and Norms," *Radical Philosophy* 96 (1999), pp. 33-41.

63. The usefulness of Horkheimer's ethical theory in rectifying Habermas' one-sided communicative theory has been pointed out by Schnaedelbach, "Max Horkheimer and the Moral Philosophy of German Idealism," *op. cit.*, pp. 301-4, and by John Torpey, "Ethics and Critical Theory: From Horkheimer to Habermas," *Telos* 69 (1986), pp. 68-84, 80-4.

64. On my reading Kosmas Psychopedis develops this kind of "negativism" within the framework of a Marxist "dialectical exposition of concepts" in order to offer a materialist critical theory of social values which are being threatened in the modern world. See Psychopedis, "New Social Thought: Questions of Theory and Critique," in *The Politics of Change*, ed. by W. Bonefeld and K. Psychopedis (New York: Palgrave, 2000), pp. 82-90 and 101-3.

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epistemological shortcomings, this holism ended up being nothing but a more refined kind of economism, which lead to a theoretical impasse due to its inability to mark out a social realm in which critical orientations prosper, a realm which lies beyond the economic and its corresponding cultural determinations. In order to avoid such self-contradictory results, Habermas, from the outset, isolated the realm of economic-administrative coercion (in functionalistic terms, "functional coordination" of actions) from the realm of "communicative freedom" (or "communicative coordination"), thus marking the "system" against the "lifeworld," or, later, against autonomous "civil society."[65]

By confining the realm of necessity to the "system," Habermas could now look forward to the emancipatory impulses which would come from free communication within the framework of the "lifeworld" or a liberal public sphere. During the years in which political regulation of capitalist economy dominated, this socio-theoretical dualism could have some kind of critical application, since its abstract concepts upheld an implicit relation to the particular distribution of power amongst the classes, within the framework of the post-war compromise of the welfare state. So, where the state regulates economic contradictions and eases class tensions, the thesis of "the colonization of the lifeworld by the system" or the suggestion of providing a "proceduralist paradigm" of law could function as the peaks of the political demands for more autonomy to society from the "paternalistic state."[66] However, in the dominant social and political practices of the 1980s and 1990s, the demand for an "autonomous civil society"

65. See Habermas, *The Theory of Communicative Action*, Vol. 2, *op. cit.*, pp. 113-97. In Habermas's *Between Facts and Norms*, the distinction between the system and the lifeworld takes the form of a distinction between the system and political publicity (i.e. the formal and informal democratic political institutions). The dualism between lifeworld and system, and the use of systems theory by Habermas, has come under criticism from a number of commentators. See e.g. Johannes Berger, "The Linguistification of the Sacred and the Delinguistification of the Economy," in *Communicative Action*; McCarthy, "Complexity and Democracy, or the Seducements of Systems Theory," *New German Critique* 35 (1985), pp. 27-53; Rolf Johannes "Ueber die Welt, die Habermas von der Einsicht ins System trennt", in *Unkritische Theorie*, pp. 41-60, Nancy Fraser, "What's Critical About Critical Theory? The Case of Habermas and Gender," *New German Critique* 35 (1985), pp. 97-131; Hans Joas, "The Unhappy Marriage of Hermeneutics and Functionalism," in *Communicative Action*, *op. cit.*; Honneth, *Critique of Power*, *op. cit.*, pp. 291-303.

66. Habermas developed the thesis of the 'internal colonization of the lifeworld' in Habermas, *Theory of Communicative Action*, Vol. 2, pp. 332-73. The idea that there is a contrast between systemic imperatives and practical communicative orientations is upheld in *Between Facts and Norms*, where it is incorporated into a 'proceduralist paradigm of law', through which a democratic control of the system can be acheived on the part of civil society (see Habermas, *Between Facts and Norms*, *op. cit.*, pp. 427-60).

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was tied up with the neoliberal slogan for "less state" and "more market."[67] In a neoliberal social environment, "autonomy" simply means "each individual being responsible for his fate" and the state should under no circumstances "oppress" him by protecting him. After two decades of applying neoliberal policies, it is clear that "autonomous politics" is unable to control the dynamic of globalized economy "from the outside." This reveals the limitations of Habermasian dualism and once again establishes Horkheimer's holistic approach as more fruitful and promising. To the extent that Habermasian socio-theoretical dualism contributes in the end to the ethical-political neutralization of capitalist economy and modern state structures, it is clear that it must itself undergo an ideology critique. A critique which would show that Habermasian social theory uses technocratic language in order to present a certain framework of social power relations as insurmountable and necessary.

Of course, there is no point in looking for ready solutions in the early works of Horkheimer. We can, however, find in these works issues which again have meaning for us today. In my opinion, these issues have to do with the rejuvenation of the attempt to construct an antiformalist and methodologically holistic theory of contemporary society, which does not isolate the practice of political freedom *by* citizens from the practice of economic, social and political coercion *upon* the working individuals. Rather, such a theory would experiment with the idea of *expanding the democratic forms of opinion and will formation throughout the whole spectrum of social life.* Such a democratic-theoretical rejuvenation of Horkheimer's holism could finally constitute a possible answer to the challenge of our times. If Horkheimer tried to envisage the possibility of a democratic guidance of economic life, in an age when the state regulation of capitalism was just beginning to be constructed, today we are invited to envisage the same possibility in an age when this state regulation is easing off. Of course, in the 1930s, Horkheimer still trusted in the power of theoretical and political imagination, a trust which we today ought to regain. The emerging global crisis of a "liberalized" market economy could be a chance for a new movement of social liberation.

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67. In my opinion, this is the fate of theory and practice of the "third way," see Anthony Giddens, *The Third Way* (New York: Polity Press 1994).

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The Foucault-Habermas Debate: The Reflexive and Receptive Aspects of Critique[1]

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> Our knowledge springs from two main sources in the mind, the first of which is the facult or power of receiving representations (receptivity for impressions); the second is the power of knowing objets by means ofthese representations (spontaneity of concepts).
> — Immanuel Kant

I.

In the field of critical philosophy, the view of Michel Foucault has been subject to very extensive discussion. It has been an ongoing puzzlement how he could reject any talk about ahistorical universals and at the same time claim philosophy – at least in its genealogic form – to be of critical importance. How could he claim any analysis to have only local significance, and at the same time take the view that some analyses can show other views to be problematic? According to what standards?

A common strategy against Foucault has been to state that he is not as neutral as he claims to be – that underneath his analysis of, say, prisons (*Discipline and Punish* – 1975) or sexuality (*The History of Sexuality* 1-3 – 1976/1984) there is a *hidden* universal normativity that shapes his critique of these fields. This is Charles Taylor's objection against Foucault.[2] HoweverW.E. Connolly has convincingly shown that this in one sense is a failed objection: Foucault does not deny the necessity of normativity.

1. I would like to thank Morten Raffnsøe-Møller, Anders Moe Rasmussen (both from Department of Philosophy, University of Aarhus), Ruth Sonderegger and Beate Rössler (both from Amsterdam University) for helpful comments and discussions on earlier versions of this paper.

2. Charles Taylor, "Foucault on Freedom and Truth," in *Philosophy and the Human Sciences – Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985).

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Sometimes he even admits (under some pressure, that is) that *perhaps* it could be possible to show some norms to be of universal validity (or at least of *permanent* validity. As Foucault put it, "...that it is perhaps a critical idea to maintain at all times"[3]). But the question is whether this kind of investigation would be a very fruitful undertaking. Here Foucault's answer would be no – or at least he would say that it is not the kind of investigation *he* wants to perform. One reason for this reservation is that the narrative entailed by this investigation would hide another very important aspect of praxis: the otherness-aspect.[4] Unfortunately Taylor does not take up this challenge.

Another approach to the seemingly paradoxical claim by Foucault has been to deny the critical aspect of his work. This has been Jürgen Habermas' strategy – most thoroughly carried out in *The Philosophical Discourse of Modernity* (1985). Habermas claims that Foucault's "felicitous positivism" (trying to free our understanding from the subjective perspective)[5] ends up in an "unholy subjectivism," in which no critique is possible. Habermas' argument is in brief as follows:[6] Foucault's alleged positivism consists of three reductions. First, the participant's interpretation of meaning in a discourse is ignored. This leads Foucault to *presentism,* because eliminating the interpreting and acting subject means that it becomes incomprehensible how to transcend the actual situation (the possibility of an acting agent, having good reasons for transcendence is eliminated). Secondly, validity-claims are reduced to effects of power. This leads to *relativism:* eliminating the validity-aspect, just describing various formations as actual power-formations makes it impossible to talk about these formations as either good, bad, adequate, fruitful, etc. – hence the descriptions are always just to be understood relative to the particular field of discourse. Thirdly, normative aspects are reduced to (a naturalistic conception of) mere being. But Foucault does not, according to Habermas, succeed in the claimed non-normativity, so he consequently ends in

3. Michel Foucault "Politics and Ethics: An Interview" (1984) in Paul Rabinow, ed., *The Foucault Reader* (London: Penguin Books, 1991), p. 379.

4. W.E. Connolly, "Taylor, Foucault, and Otherness," in *Political Theory* 13 (1985), pp. 372-374. See Taylor's answer in Charles Taylor, "Connolly, Foucault, and Truth" in *ibid.*, pp. 377-85.

5. Cf. Michel Foucault, *The Archaeology of Knowledge* (1969), tr. by A.M. Sheridan Smith (New York: Pantheon , 1972), p. 125. Michel Foucault, *The Order of Discourse* (1970), tr. by A.M. Sheridan Smith (New York: Pantheon , 1972), p. 324.

6. Jürgen Habermas, *The Philosophical Discourse of Modernity*, tr. by Frederick Lawrence (Cambridge, MA: MIT Press, 1987), pp. 276-86.

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a *cryptonormativism* – his critique is founded in a normativity that is hidden. Due to this normative fundament, it is always partial. As a consequence of this, Foucault cannot tell why the new understanding (the result of the critique) should be any better than the old (the object of critique).

Due to these three objections, Habermas claims that Foucault ends in an unholy subjectivism, because these three points together make it difficult to describe how formations are possible. What is it that connects various kinds of being? According to Habermas, Foucault has to compensate for this insufficiency, and it is done through an "inflation of the psychic."[7] This means that history is merely reflected in relation to whether it represents an increase or decrease in subjective freedom (in a very individual-psychologic interpretation) – and (still according to Habermas' interpretation of Foucault) often society moves towards a decrease in such freedom. Given this predisposition of society to reduce freedom, we should be on guard against social formations as such.

Habermas' point is that Foucault thereby fails to see that social formations also are necessary to *ensure* subjective freedom; that critique (as an effect of freedom) in a very important sense is dependent on intersubjectivity; that all critique (insofar as it is argumentative) has to rest on the transcendental conditions for communicative action.

Habermas does indeed have a point as to the last part of the argument: Foucault's notion of the other and the social *is* rather inarticulate.[8] But the following will describe a notion of critique that demonstrates that it nevertheless *does* make sense to attribute a critical approach to the Foucaultian writings. Foucault's critical approach has certain difficulties, but at the same time has certain qualities that can broaden the more traditional account of critique than can be extracted from, for example, Habermas' writings. It will first be necessary to show that it is possible for Foucault to maintain a concept of critique, without having to commit himself on universals. In Foucault's writings, critique is understood as reality resisting a conceptual grip – critique is a pointing out of a resistance against or response to the understanding activity. Critique is, in other words, understood as something that is *put upon us.* It will be subsequently shown that

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7. *Ibid.*, p. 288.

8. Even though it is not as bad as Habermas takes it, see S. Thompson, "The Agony and the Ecstasy: Foucault, Habermas and the Problem of Recognition" in Samantha Ashenden & David Owen, eds., *Foucault contra Habermas. Recasting the Dialogue between Genealogy and Critical Theory* (London: SAGE Publications Ltd, 1999), pp. 199-200.

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Habermas' opposition to Foucault's position springs from a focus on critique as an activity between *acting* agents. This view is seen in his emphasis on communicative *actions* and validity *claims* and in his hesitance towards "natural" reality in discursive matters. Yet this hesitance is more an effect than a cause of his basic notion of critique: his latest change in view on reality has not brought a similar change in the concept of critique. Ultimately, Foucault and Habermas are both important in illuminating the notion of critique – they complement, rather than exclude, each other.

Of course, both thinkers *actually* have contributed with very significant critical investigations throughout most of their writings. The following is not a judgment on their critiques but an evaluation of their *conceptions* of critique: in what sense do they *explicate* a helpful conception of critique that can illluminate their own work? Are these conceptions adequate as general conceptions of critique?

II.

The overall intuition on which this comparison of Foucault and Habermas is premised is the presence of some kind of reality. It is true that – in the postmetaphysical era – reality can be approached through quite differing normative relativizations. Yet every normative relativization claims to be directed towards some kind of reality. This is a point where disputants can meet despite their normative differences: normative relativizations focus on certain aspects of reality – at the cost of others. It is therefore possible to discuss in what sense different normative relativizations are capable of accounting for all relevant aspects of reality. Of course, it is not for certain that this is a strategy that leads to a final consensus, since the normative relativizations may be immunized against critique in various ways (e.g., by referring to realities that are not accessible to the critic). But it is always possible to relate to "foreign" normative outlooks by assessing whether it is able to account in a coherent way for relevant aspects of reality.[9]

Foucault is – among others – a philosopher who demonstrates this point. This is especially clear in his early writings, but it can be found in later writings too, especially those talking about the critical implications of his view. This is of significance for my present purpose, because, as I will show, it shapes his concept of critique in a rather receptive direction.

It is never made more clear than in his most methodological work –

9. Relevance and coherence are certainly themselves possible objects for critical discussion, but such discussion cannot happen independently of norms of relevance and coherence themselves.

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The Archaeology of Knowledge (1969). In this book Foucault wants to reintroduce the attention of the interruptions that appear "[b]eneath the great continuities of thought" – because these interruptions are of founding importance for those narratives. The fundamental intuitive drive behind the book becomes clear when he asserts that ". . . ever more levels of analysis have been established: each has its own peculiar discontinuities, each entails its own peculiar cutting."[10]

The awareness of interruptions in history is important because analysis and conceptualization inevitably have a deficit in relation to their content. Even though each field of analysis on the one hand is founded on ruptures, on the other hand they are disguised in order to tell a story with inner coherence (in order to make sense). The task of the philosopher (archaeologist) is to uncover (or to stay in the archaeological terminology: unearth) the limits of the given patterns of analysis, in order to show what is lost – what ruptures have been hidden.

How can one explain that conceptual analysis inevitably has a deficit? Here Foucault becomes a little cryptic, but the overall intuition is clear. He tries to hint at it through several negative statements. For example he states that an object is not adequately described through its emergence, delimitation and specification and that discursive relations are not *internal* to discourse.[11] The following passage is the clearest statement on the issue:". . . the signifying structure of language always refers back to something else; objects are designated by it; meaning is intended by it."[12]

In this passage it becomes clear that Foucault is trying to articulate the realistic intuition sketched out above: in any description or analysis there is a tension that is founded on the external orientation of knowledge and language. This is the tension between an active effort to "get a grasp" and a "something" that is sought and grasped – hence subjected to conceptualization. The reason why for Foucault's cryptic mode of expression

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10. Foucault, *Archaelogy of Knowledge, op. cit.*, p. 3. Other characteristic methodological claims are present throughout the book: It is based on the principle that *everything* is never said [...] statements (however numerous they may be) are always in deficit [...] We are studying statements at the limit that separates them from what is not said" (pp. 118-9). "We must grasp the statement in the exact specificity of its occurrence [...] and show what other forms of statements it excludes" (p. 28). "However, it is not possible to describe all the relations that may emerge in this way without some guide-lines. A provisional division must be adopted as an initial approximation [...] But this is only a provisional privilege [...] the division of this field itself cannot be regarded either as definitive or as absolutely valid," (pp. 29-30).

11. *Ibid.*, pp. 42, 46.

12. *Ibid.*, p. 111.

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becomes clear in the following passage: "What, in short, we wish to do is to dispense with 'things.' To 'de-presentify' them. To conjure up their rich, heavy, immediate plenitude [...] To substitute for the enigmatic treasure of 'things' anterior to discourse, the regular formation of objects that emerge only in discourse. [...] However, to suppress the stage of 'things themselves' is not necessarily to return to the linguistic analysis of meaning. [...] from the kind of analysis that I have undertaken, *words* are as deliberately absent as *things* themselves."[13]

Here it becomes clear that Foucault finds it important to dissociate from any talk about the real as something *pre-discursive.*[14] There is no "thing-in-itself", a reality that exists *before* the discursive understanding of metaphysical realism. The real is a result of discourse, but discourse in the heterogeneous, tensed understanding, that is. The real is defined as "that which is subjected to discursive 'treatment.'" So there is no relation to reality outside the discourse, but there is no discourse without an external relation either. "Words" and "Things" are interdependent.

It is true that Foucault does not talk much about critique in *The Archaeology of Knowledge*, and when he occasionally does, it is often in negative terms. But the link between critique and the limiting otherness is made very clear in his following book – *The Order of Discourse* (1970). In the discussion of Foucault's critical approach it is often stated that it was only due to the Habermasian objections that Foucault realized that critique was an issue of importance.[15] But this objection overlooks that critique was already an issue in this lecture, dealt with on equal footing with genealogy: Following these principles, and referring to this overall view, we can analyze two distinct groups: the "critical" group which tries to distinguish the forms of exclusion, limitation and appropriation of which I was speaking earlier and the "genealogical" group.[16]

So: critique means the revealing of those limits that inherit the discursive formations, and these limits are to be understood in a realistic manner. The source of critique is the fact that limitations have been posed on "something", and this "something" to some extent *resists* these limitations.

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13. *Ibid.*, pp. 47-48.
14. *Ibid.*, pp. 47, 76, 98-99.
15. An example of this is found in T. McCarthy, "The Critique of Impure Reason: Foucault and the Frankfurt School" (1990) in Michael Kelly, ed. *Critique and Power – Recasting the Foucault/Habermas Debate* (Cambridge Mass, London: MIT Press, 1994), pp. 259-62.
16. Foucault, *The Order of Discourse, op.cit.*, p. 231. The translation has been slightly modified.

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Critique means revealing which aspects of "the otherness" are disguised. This is an approach that is just as important as the genealogical analysis. In fact they are complementary: on the one hand, genealogy reveals how power (at this time, a new term in the Foucaultian thought) actually is effectuated in discursive formations (understanding the affirmative aspect of power). Critique on the other hand reveals how these formations are limiting, excluding and rarefying. Genealogy and critique together show both aspects of power – the affirmative and the rarefying.

At this point it is important to notice what is, according to Foucault, the source of critique: the source of critique is not primarily the reflexive agent. According to Foucault, reflexion (or at least *discursive* reflexion) has some drawbacks in relation to critique, because it is more oriented toward showing continuity, connection and stability. It is not his point that critique can function *without* reflexivity. But his point is that it is a very important aspect of critique to evaluate the evaluation, i.e., evaluate the limitations that are necessary in order to reflect. An important aspect of critique is to "be open" towards the complexity of reality, to try to "turn off the computer" and let reality shine through the reflexive blinders. To open-up towards the *complexity* of the world, rather than trying to see the world as *unified*. Perhaps such "receptivity" also has to be an activity, but certainly of a special kind: not re-flect (which etymologically indicates a *bending*-back), but to re-ceive (*taking*-in). This receptivity is valuable in a reflexive (critical) revision of the prevailing reflexive attitude.

Some commentators have objected against Habermas' critique of Foucault, that it is more appropriate for the early Foucault than for the later. Habermas is said not to have taken the development of Foucault's writings after *Discipline and Punish* (1975) into account.[17] Whether this is a fair critique of Habermas is not of great importance in this context, but there *is* surely a shift in Foucault's approach around the mid-1970s. It is therefore relevant to demonstrate that the point that the early Foucault could have against the Habermasian critique remains an issue for the later Foucault.

It would be preposterous to claim that Foucault in the years between *The Order of Discourse* and his late critical writings was paying equal attention to both genealogy and critique. At least in terms of explicit references, genealogy seems to be much more his focus than critique. However this is not due to any methodological devaluation of critique – the critical *implications* of his work in these years are difficult to overlook. The focus

17. See Michael Kelly, "Foucault, Habermas, and the Self-Referentiality" in Kelly, ed. *Critique and Power, op.cit.*, pp. 367-8.

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on genealogy is rather due to the fact that the genealogical part was much more questionable – and therefore needed much more explication: given Foucault's great emphasis on power as the fundamental phenomenon, it becomes very important to stress that power (contrary to standard understanding) in his approach is not to be understood as repression or blind destruction. Power is not *only* repressive but has also a creative moment.

This is perfectly clear in the two lectures that Foucault gave in January 1976 at Collège de France.[18] He once again reveals how he sees the relationships among archaeology, genealogy and critique. He makes the important point that the validity of critique is always locally founded and of local quality. The search for a universal foundation for critique is therefore in vain – i.e., a critique is only valid as long as the validity of the local horizon which it is built upon, is accepted; and this latter validity is never given in advance. This of course means that we should give up searching for a universality, understood as "always, under any circumstance," and rather talk about generality, understood as "always, under some specific circumstances."

This is the source of Habermas' presentism-objection: if critique cannot reach across its own boundaries, it does not make sense at all: a critique that is bounded by the very same objects (the present, the local conditions) that it seeks to criticize does not make sense, because the object that is criticized remains at the same time certified. In order for Foucault to preserve a reasonable concept of critique, he must somehow point out how it is possible to *transgress* the context, even though it is not possible to *transcend* it.[19] In other words: it must be explained how "local" does not equal "present."

The first point is that Foucault himself sees this local character of critique as a *radicalization* of critique – not as a withdrawal: because critique is not obliged to be in accordance with the general (public) opinion, it is possible for it to question to a much wider degree. The argument seems to be that even though both the foundation and the validity are of local character, it does not follow that it has to be the *same* locality that is both foundational and the object of critique. This is a very decisive point

18. These represent a summation of his work since his arrival at Collège de France, i.e., since the inaugural lecture *The Order of Discourse*. Cf. Michel Foucault, "Cours du 7 et 17 janvier 1976" (1976), in Kelly, ed. *Critique and Power, op.cit.*, p. 17.

19. For this distinction, see J. Tully, "To Think and Act Differently: Foucault's Four Reciprocal Objections to Habermas' Theory" in Ashenden and Owen, eds., *Foucault contra Habermas, op.cit.*, p. 99.

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to make; it can serve to clear away some of the impasses of the debate between Habermas and Foucault, as well as the correlatives between Habermas-scholars and Foucault-scholars. It does not follow from the embeddedness of a critique in a local horizon that it cannot have critical implications that extend this horizon. Every local horizon claims to relate to the world, hence they are also affected by another horizon that provides a more appropriate[20] understanding of the world. When agents from severely differing horizons enter into discussion, criticism can nevertheless be advanced by demonstrating that there are certain aspects of the world that have not been taken into account. It is true that given the differing normative outlooks, such objections may be avoided by either demonstrating that these aspects *are* (or could be) taken into account – only in a different way than the critic would expect – or by claiming that this blindness is necessary in order to be able to account for aspects of reality that are more important and relevant. But in the latter case, the initial critic has still had some success: a limitation in the criticized approach has been demonstrated which shows that there are limits to how well it is able to account for worldly affairs.

This kind of critique is possible because both disputants direct their claims towards worldly affairs (in a very broad sense: worldly affairs may be objective, subjective and social, as discussed below). Even though normative horizons are local in foundation, the reach of the claims that are posed inside these horizons are not merely local. They point towards a world that is shared with other agents who do not necessarily share the local horizon; local horizons transgress merely present conditions. This is the point that makes critique between differing horizons possible. Certainly, disputants may understand the world differently, but they nonetheless presuppose that the other disputant , at least in some weak sense, also is part of the world. Unless it is presupposed that all the aspects of the world that the critic can relate to are irrelevant in relation to the view avowed by the addressee, the critic can take this as the starting point, without presupposing one robust universal starting point.

Foucault's point is that universals tends to block critique. The most obvious example of this is the universal values, defining "when an argument is worth taking serious." Iris M. Young has convincingly shown[21]

20. Certainly, "appropriateness" can vary with different horizons, hence it is sometimes possible to *explain* away the problems. But (1) not always, (2) sometimes it at least will be so troublesome, that a change in horizon will seem more attractive and (3) even if one chooses this short cut, this will in itself show an influence across horizons.

21. In I.M. Young, "Activist Challenges to Deliberative Democracy" in *Political Theory* 29, 2001, pp. 670-690.

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how for example the ideal of consensus in a deliberative democracy can be used to block an argument, questioning the very ideal of consensus, because the critic can be seen as breaking the rules of "good argumentation". When taking some claims to be universally valid, in cases of conflict only revision of the non-universal part is taken to be a possibility – because the validity of the universal value as a mere reflex is never questioned.[22]

So it *does* make sense to criticize other local approaches to the world. But it is also clear that such a critique only can take form as an argument such as the following, "As *I* see it, *your* conception of the world is wrong, because X. How can you respond to that?" The critique has to be dialogic.[23] It is true that it *can* reach an impasse, if both horizons prove to describe reality equally well; if they prove to be good with regard to different aspects; or if one or both of them end up with arguments that are immunized against objections (for example, by pointing to invisible phenomena). But this does not mean that critique is impotent in total. It just means that we cannot always reach a final agreement. On this point, both Habermas and Foucault would agree.

In the last years of his life, Foucault on several occasions related to the question of Enlightenment – often through a reading of Kant's *What is Enlightenment?* of 1784.[24] Foucault emphasizes the critical ethos of this

22. As mentioned in the introduction, Foucault later admits that it probably would be possible to argue that some values have permanent validity, but still he tries to downgrade the significance of this. Michel Foucault "Politics and Ethics: An Interview" (1984) in Rabinow, ed., *The Foucault Reader*, *op. cit.*, pp. 378-80.

23. This is the reason why the strategy pursued by some defenders of Foucault against Habermas is sterile: they seem to assert that Foucault is not obliged to answer to the objections, because his aim is not the same as the aim of Habermas. Whereas Habermas treats juridical power, Foucault talks about disciplinary power (Kelly, *op.cit.*, pp. 374-6); whereas the aim of Foucault's critique is "to loosen the grip of a picture which currently holds us captive," the aim of Habermas' critique is to keep us to the normativity that communicative action entails (Ashenden and Owen, "Introduction: Foucault, Habermas and the Politics of Critique" in Ashenden and Owen, eds., *Foucault contra Habermas. op.cit.*, p. 11); whereas the aim of Habermas is to reveal "ideological captivity", the aim of Foucault is to reveal "aspectival captivity" (D. Owen, "Criticism and Captivity: On Genealogy and Critical Theory" in *European Journal of Philosophy* 10:2, 2002, pp. 216-30). This is of course all true, but then it remains to be shown, what the relationship between these approaches is: in what way one is "better" than the other, how they supplement each other, how it makes sense to label both approaches "critique," etc.

24. These reflections can be found in Michel Foucault, "What is Critique?" (1978), tr. by K.P. Geiman in James Schmidt, ed., *What is Enlightenment?* (Berkeley and Los Angeles: University of California Press, 1996), pp. 382-98; "Critical Theory/Intellectual History" (1983), tr. by A. Sheridan et al. in M. Kelly, ed. *Critique and Power, op.cit.*, pp. 109-38; "The Art of Telling the Truth" (1983), tr. by A. Sheridan *et al.* in M. Kelly, ed. *Critique and Power. op.cit.*, pp. 139-48; "What is Enlightenment" (1984), tr. by P. Rabinow in Rabinow, ed., *The Foucault Reader, op.cit.*, p. 379.

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approach – especially the critical attitude toward the present.[25] Still, the overall theme is that critique is about limitations: limitations in our concept of being governed, limitations in our conception of what knowledge (*connaissance*) is,[26] the limiting constraints that are posed through the actual constellation of knowledge (*savoir*), power and ethics (the objective, intersubjective and subjective axes).[27] Foucault points out the most important limiting factor: "But if we are not to settle for the affirmation or the empty dream of freedom, it seems to me that this historico-critical attitude must also be an experimental one. I mean that this work done at the limits of ourselves must, on the one hand, open up a realm of historical inquiry and, on the other, put itself to the test of reality and actuality, both to grasp the points where change is possible and desirable, and to determine the precise form this change should take."[28]

In order to talk about critique, it is necessary to talk about freedom in one sense or another: critique presupposes that one is not totally bound by the given – you must be able to transgress the context (in one sense or another). But just as important: critique does not make sense in "the empty dream of freedom." Critique only makes sense, if one can distinguish between the resulting changes in praxis (the *realized* consequences of the critique) as either "good" or "bad."[29] Thus, critique is put to "the test of reality" ("reality" of course must be understood in broad terms, as shown above). Reality is the critical "counter-voice" that is the test to any understanding of the world, and critique does not make sense without this dialectic between activity and receptivity (the "response" of reality). Unfortunately Foucault does not elaborate on this comment (although he also circles around the question at times), but as has been seen, it is very much in line with a general theme of his thought.[30]

Now, it is clear that this interpretation of Foucault's lectures somehow turns Foucault into a "Habermas by other means," i.e., he has been saved from the relativism-objection that was entailed in the presentism-

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25. M. Foucault, "The Art of Telling the Truth," *op.cit.*, pp. 139-40; "What is Enlightenment," *op.cit.*, pp. 37-8, 43.
26. M. Foucault, "What is Critique?", *op.cit.*, pp. 39,41.
27. M. Foucault, "What is Enlightenment?", *op.cit.*, p. 576.
28. *Ibid.*, p. 46.
29. Perhaps one could say that the necessity of freedom vs. reality belongs to two different *stages* in critique. But this does not change the point made: accepting the concept of critique developed here, both stages are of equal foundational importance.
30. Something he confirms in M. Foucault "Critical Theory/Intellectual History," *op.cit.*, p. 442.

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objection, by asserting that Foucault's account also has transcendental implications: whereas Habermas points at intersubjectivity as the transcendental (or at least pragmatic-transcendental) condition for communicative action, Foucault is drawing on reality (as a counter-discursive phenomenon) as a similar transcendental condition. The line of arguments gets Foucault to play Habermas' game. Is this fair to Foucault?

Obviously this approach does not provide a final and exhaustive account of Foucault. If one only focusses on how Foucault resembles Habermas, important aspects are lost. Nonetheless it is important to show in what ways they *could* be compared, without ending in an impasse in which both sides are standing on their respective "islands", claiming that the other does not understand one's own position. Both sides claim to have something to say about the shared world; hence both sides must be willing to argue against opposing claims about the same world. There is yet another reason why it is reasonable to make such an interpretation, and this is a critical/genealogical reason: given that both sides to some extent represent local horizons, they can (if they communicate) serve as critical (or at least elaborating) tools. By viewing Foucault through Habermas' lenses, one becomes aware of new aspects that – and this is my claim – are often overlooked. In this case, we have recovered the realist and receptive foundation of his critical approach.

III.

From the earlier discussion it is clear that Foucault could very well maintain a critical approach, without holding universal claims. Habermas' objections against Foucault's *presentivism*, *relativism* and *cryptonormativism* fail, because the nature of the underlying reductions is misunderstood. Foucault does not deny the importance of the participant/interpreter, validity claims or normative aspects. Rather he points out how focus on those aspects in itself can have deleterious effects. The *presentist* (or better: *local*), *relativist* and *cryptonormative* aspects are overlooked – aspects that perhaps are not absolute, but which nevertheless are important in order to show the limits of any discourse or formation of power.

In fact, it has also been shown that to some extent, Foucault holds a notion of critique that is more radical than Habermas' due to his emphasis on local character. Hence the questions arise: in what sense is there still something to be learned from Habermas' notion of critique, and why has he not acknowledged the critical point of Foucault's thought? In the following, it will be shown that Habermas' thoughts on validity claims can

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be used to attain a more subtle view on how reality is given in quite diverse forms that interact with each other but which remain irreducible. However the focus on communicative *actions* and validity *claims* on the other hand serves as a translation that narrows his view on how to criticize them (critique is something that happens between acting agents rather than something that is imposed on us).

However, rather than addressing the question of critique, Habermas tends to dwell on the issue of validity. The talk about validity claims was introduced in the early 1970s. It was explicitly broached as a topic that might broaden the discussion that rose from the investigations into the question of truth – investigations he found to be too narrowly oriented.[31] In its original form, validity claims were presented as a four-part phenomenon, entailed in every communicative action: (a) the claim of the comprehensibility of the utterance; (b) the claim of truth as to the propositional component; (c) the claim that it is justified; (d) the claim of veracity of the expressed intention.[32] Habermas realized very soon, though, that claim (a) somehow was on another footing than the others, but he has held on to the remaining three types of validity claims as interdependent but distinct and irreducible aspect of any communicative action.

The remaining three types of validity claims can be said to point to three important aspects of reality.[33] Reality is not just about how the "things out-there" limit our subjective (or perhaps intersubjective) creativity. In some sense also the subjective- and intersubjective aspects themselves serve as limiting realities that have to be taken into consideration. The point with the validity claims is that they are always disputable. But at the same time they are also unavoidable *as disputable.* They articulate the discursive fact that no view on the world is unquestionable. It is always possible to question it as to its acceptability in relation to the three types of validity claims.

It is reasonable to say that this pattern is to some degree universal (though not exhaustive: it would probably be difficult to explain for example religious and poetic statements only through this pattern). It is difficult indeed to think of worldly relations that do not involve both objectivity, intersubjectivity and subjectivity.[34] But this does not mean

31. Jurgen Habermas, "WahrheitstHeorien" (1973) in *Vorstudien und Ergänzungen zur Theorie des kommunikativen Handelns* (Frankfurt: Suhrkamp, 1984), pp. 137

32. *Ibid.*, 138.

33. Cf. Jurgen Habermas, *The Theory of Communicative Action* (1981), tr. by Thomas McCarthy (Boston: Beacon Press, 1985), vol. 1.

34. Actually, also Foucault in his latest writings came to realize the importance of this pattern. In M. Foucault, "What is Enlightenment?", *op.cit.*, pp. 48-9 he – probably influenced by Habermas – points at the very same pattern as a critical systematicity.

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that this is all there is to say about reality. In fact Habermas' approach to reality through these validity claims is very much in accordance with a general move in his thought: the stress on the acting agents (putting up reflexive claims about the world) rather than on how the world affects us (receptivity). This is also clear in his view on critique.

In Habermas' thought, critique is attached to communicative action, or to be more precise: discourse. In addition Discourse is the active reflexive attitude that emerges when the everyday life world breaks down – i.e. when the immediate, tacit, taking for granted of a certain number of validity claims (that founds everyday practice) is challenged. In immediate actions, validity claims are not questioned.[35] Critique is linked to communicative actions because communicative actions are where validity claims are asserted and evaluated, i.e., the validity claims are subjected in the communicative actions to a potential critique by the others: the others are free to evaluate whether to acknowledge the claims or not.

In this early phase, Habermas is very cautious of the talk about reality. On the one hand, he does not deny that reality has an important role to play in the game of validity claims. But on the other hand he emphasizes that this importance is on the immediate acting level – not on the discursive reflexive level.[36] On the discursive reflexive level, the legitimation of a validity claim is to be shown through arguments – not (in the first place) through comparison with reality.

It is certainly worth questioning whether this point does not rest on a too rigid separation of the immediate and the discursive level: if reality plays a role on the immediate level, it should also have a role to play on the discursive level. Habermas is to some degree aware of this. He "translates" the immediate-level "reality" (*Gegenstände*) into the discursive-level "fact" (*Tatsachen*), but at this stage he is rather unclear as to the relationship between reality and facts.

The reason for this scepticism as to the role of reality seems to be motivated by a worry about the possibility of critique. As Habermas sees

35. The distinction between immediate and discursive actions is certainly not without problems. It would probably be difficult in each particular action to decide whether it is discursive or immediate. Rather it should be used to point at the fact that actions never are absolutely immediate – nor absolutely discursive. In communicative actions some validity claims are subjected to reflexion, some are taken for granted. The so-called discursive actions are characterized by a high degree of reflexion on validity claims, immediate actions are characterized by a low degree of reflexion. But no action could reflect on (criticize) *every* entailed validity claim – just like no action is totally *unreflective*.

36. Habermas, "Wahrheitstheorien," *op.cit.*, pp. 132-7 – esp. 134.

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it, reality is a limit in relation to critique: reality is that which has to be overcome in order to achieve the goal of the critique. Of course one *can* criticize reality, but the critique would have to be directed at acting agents who have the ability to change reality.[37] Critique demands changes in reality – reality does not (in itself) demand critique. So Habermas emphasizes the normative (i.e., the active) aspect of critique, and is sceptical as to critique springing from reality. This can to some extent be seen in the following passage: "That is why results of practical discourses [...] can relate critically to actuality (*Wirklichkeit*) (that is, the symbolic reality, *Realität,* of society), while theoretical discourses cannot relate critically to reality (nature) itself, but have to relate to false assertions about reality.[38]

Habermas acknowledges that we can have a critical relationship to the social and symbolic part of "*Wirklichkeit*" (which is partly the product of argumentative practice, and thus a result of- and open to reflexion) whereas he denies the possibility of a reflexive (discursive) attitude to the "natural" reality.[39] That seems to be a reasonable point of view: it does not make sense to criticize pure things themselves, critique has to relate to what is done with/to "natural" realities, whereas symbolic realities in themselves entail both normative and real aspects. But first of all I would question whether it is possible to have pure things (cf. Habermas' own later tripartition of the world: the objective, subjective and social worlds are interdependent). Secondly, even if the distinction is granted, the role of reality in critique is not exhausted with the symbolic realities. (cf. section II) Habermas does not say that it is, but since he downgrades the role of reality in critique, it would have been fair then to explicate what remains of it.

The point now is not that Habermas' concept of critique, according to the definition of it here, is empty. Due to my considerations on the nature of reality and normativity, there is no reason to claim that Habermas' concept is without *tension*: a symbolic formed reality can have just as tense a relation to normativity as can a more naturally given reality. Rather, my claim is that the quote above shows a general tendency in Habermas' approach to critique: a tendency to focus on critique as an activity. Without

37. This view on reality is most explicit in his critique of Heidegger – see J. Habermas, *The Philosophical Discourse of Modernity*, *op.cit.*, pp 139-41; also in "Wahrheitstheorien," *op.cit.*, p. 157.

38. "Wahrheitstheorien", *op.cit.*, p. 149, my translation.

39. A Heideggerian hyphenation is quite significant here: the shift in terminology: "act-uality" [Wirk-lichkeit] (the reality that is "brought about") vs. "reality" [Realität]. The same goes for Habermas' translation of the immediate level "Gegen-stände" to the discursive level "Tat-sachen".

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this tendency, it would not be possible to make the above distinction as sharply as actually done. This tendency is a limitation in his concept of critique, a limitation that makes him blind to the critical potential of Foucault's work.

The problem with this conception is that it becomes hard to account for how a critique can be established if *all* parties in the discussion believe that there is no problem, because they share a certain conceptual outlook, i.e., when there is no apparent conflict on the intersubjective level. Since the reflexive bending-together of a complex reality means drawing some aspects into focus, *at the cost* of other aspects, these downgraded aspects gradually become invisible. Hence, reflexivity may sometimes itself be what should be criticized. Yet even if this critique of reflexivity must be reflexive itself, it may sometimes be necessary to "turn down" reflexivity and orient oneself more receptively towards reality – in order to reach the *awareness* that it is necessary to reshape the conceptual outlook.[40] The point is that critique not only has to be a reflexive activity (bending together), but sometimes a receptive activity may serve to become aware of other kinds of criticizable aspects. For example, a mere description of how the institutions of prison have evolved, may turn out to be a critique of some of its aspects: not so much because the institution has inherent inconsistencies, but rather because the description shows that the institution at the outset is a product of some reductive moves that we have become aware of, i.e., reductive moves that perhaps had their place in the past but has lost legitimation now.[41]

Habermas focuses on critique as something that springs from an acting agent, and as such it entails conscious, reflective agents. Critique is an attempt to get free from some purely given reality. This becomes evident when looking at the critical "tool" that Habermas proposes – the reflective idea of the ideal speech-situation, which probably has been one of the most disputed parts of the Habermasian oeuvre: "(1) Every potential participant in a discourse must have equal access to perform communicative

40. The term "world-disclosing critique" is generally attributed to the works of Adorno, Heidegger and Derrida, as opposed to Habermas' "problem-solving critique." Habermas is uneasy about this idea (cf. J. Habermas, *The Philosophical Discourse of Modernity*, *op.cit.*, pp. 185-210), fearing that the "potential of negation" is lost, turning critique into mere fiction. Whether to call Foucault's notion of critique world-disclosing too, I will leave open, but it should be clear by now that he has no problem with a "potential of negation." It is just not the negation that stems from internal *inconsistencies*, but rather a negation stemming from *inadequacy*.

41. This is the critical point in M. Foucault, *Discipline and Punish*, *op.cit.*

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speech-acts [...] (2) Every participant in a discourse must have equal access to make interpretations, assertions, recommendations, explanations and justifications, and to problematize, support or reject their validity claims [...] (3) Only those who, as acting agents, have equal access to the discourse are allowed to perform representative speech-acts [...] (4) Only those who, as acting agents, have equal access to the discourse are allowed to perform regulative speech-acts. . . .[42]

The reason for introducing this idea was not primarily to sketch out an ideal society. Rather the point has been to illustrate what communicative, discursive, non-instrumental argumentation means. And the point is not whether in an actual situation, a speech act is reasonable in the non-instrumental sense or not (transcendentally speaking). The point is rather that in an actual argument, it would be a serious objection if one could point out a violation of one of the regulative rules that constitute the ideal speech-situation. On such an objection, one would have either to revise the original argument, or one would exclude oneself from the argumentative practice. The ideal speech situation is a regulative tool in actual argumentation.

This is the strength of the idea – but also its weakness. An ongoing objection against it has been that, due to its abstract character, it cannot have any practical relevance.[43] I do not agree that it cannot have *any* practical relevance. It is true that it is not given in advance precisely *what* consequences the drawing on the ideal speech situation will have in every given context (which of course also is the reason why it cannot be used to form one ideal society). But this does not mean that inside a given situation it cannot have any relevance at all – it just means that we never reach the ideal argument. Further discursive reflexion always is relevant, and a dispute always has to end with an open character, "we have now reflected on the subject, and according to the arguments we could think of, the answer is X. Further reflection could perhaps change this." This open character of any settlement is the reason why the ideal speech situation is defined through non-repressivity: when no opinion is repressed, any argument against a settlement has to be taken serious.

What *is* problematic, though, is that it solely concentrates on the

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42. J. Habermas, "Wahrheitstheorien," *op.cit.*, pp. 177-8 – my translation.

43. J. Tully, "To Think and Act Differently: Foucault's Four Reciprocal Objections to Habermas' Theory," *op.cit.*, p. 131; M. Foucault, "The Ethics of the Concern of the Self as a Practice of Freedom" (1984), tr. by Richard Hurley and Others in Paul Rabinow, ed., *Ethics: Subjectivity and Truth: Essential Works of Foucault, 1954-1984*, vol. 1 (New York, The New Press, 1997), pp. 297-8.

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active aspects of discourse (rules about who can *participate*, rules for *acting agents*). That is: it focuses on the normative, and the rules only articulate rules for action – the relation to reality is ignored. Hence, the critique that springs from this ideal will mainly focus on whether we "act" well in our discursive actions and not so much on whether the performed actions actually "fit" with reality. One could of course object against this statement that Habermas *does* take a reality into account: the reality that we as acting agents always are subjected to in an intersubjective community. That is true, but my point is not that there is *no* reality in Habermas' concept of critique, but rather that the reality that is taken into account in the explication of the ideal is too narrow: the reality of "the other" and not "the otherness."

Habermas' view on reality at this early stage is rather forced. On the one hand he seems to recognize that validity claims cannot be thought in naive anti-realist terms. On the other hand he is trying to downgrade the relevance of reality when talking about the discursive practice – because, in his view, the real (understood as the *other* of language) is limiting the reflexive freedom that is a necessary condition for the critical *activity*. This worry is very clear in *The Philosophical Discourse of Modernity* (1985) in which the objection against (among others) Heidegger and Foucault is that their focus on the ontological difference (the difference between language vs. the things spoken about) is the source of the fragmentation of modernity.[44] And certainly, if the difference is seen as absolute, this is a reasonable objection. But as shown above, this is not a fair reading of Foucault. Foucault rather wants to point out that the life world is never in *total* reconciliation.[45] Being open to the diversity of reality is just as important a tool for critique as the effort to reorganize the diversity differently.

This was an objection that was raised continuously in the nineties, and it lead to Habermas' book on epistemological issues – *Truth and Justification* (1999). In this book he admits that the reality-aspects have been thrown in the shade in his writings since "Wahrheitstheorien." In drawing on Putnam, Wellmer, Lafont and Brandom, Habermas undertakes to show in what sense "the real" has a role to play, not only in the immediate practice, but in the discursive practice too. He insists that the discursive theory

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44. J. Habermas, *The Philosophical Discourse of Modernity*, *op.cit.*, pp. 319-21. The worry has also a clear articulation (turned against Heidegger) in Jurgen Habermas, *Truth and Justification* (1999), tr. by Barbara Fultner (Cambridge: Polity Press, 2003), pp. 24-6.

45. Habermas acknowledges this in *The Philosophical Discourse of Modernity*, *op.cit.*, pp. 321-2.

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of truth that was presented in "Wahrheitsteorien" is still valid, but he also admits that it is inadequate. It has to be supplemented. In order to show this, he undertakes a comparison between truth and justification. In his early view truth was explained in justificatory terms. This view, is now to be supplemented, and this is due to two realistic intuitions that Habermas inherits from Robert Brandom: "1.that no matter how well justified statements may be, they can turn out to be false in light of new evidence. [...] that a world that is not of our making imposes contingent constraints on us...2.that true statements deserve to be accepted as valid by everyone everywhere [...] that the world is one and the same for all, no matter from which perspective we refer to something in it."[46]

Now, it is Habermas' point with these realism-intuitions that they show the difference between truth and moral rightness. Truth-claims always have an external orientation that to some extent is independent of the communicative context in which it is claimed, whereas rightness-claims *create* the reality that they are about.[47] This difference between truth and rightness is not a new discovery in the thought of Habermas. It was also found in "Wahrheitsteorien" and continued to be of importance in his writings in the 1980s. But at the early stage he claimed this difference to be of no *discursive* relevance. In the late formulation reality is understood in discursive terms, "It is the goal of justifications to discover a truth that exceeds all justification."[48] Reality is something that we come across when the immediate life world breaks down, when we have to reflect – in discursive arguments, that is.

As we have seen, with Foucault, critique and reality are closely interrelated, leading to a focus on the receptive aspect of critique. The turn in Habermas' writings to underscore the discursive relevance of reality might be taken to indicate that the road was open for Habermas to recognize the critical value of reality. This however is *not* the case! Generally speaking, critique is not a major issue in the late book, and once again the claim is that "moral knowledge, unlike empirical knowledge, is *inherently* [*von Haus aus*] used for purposes of critique and justification."[49] So critique is still mainly an issue in those cases where the reality under

46. J. Habermas, *Truth and Justification*, *op.cit.*, p.144.

47. *Ibid.*, pp. 247-8+256-8. This is certainly not to be understood in purely constructivist terms: the creativity is subjected to limitations springing from social relations and reciprocal recognition between agents. But again: these are act-ual restrictions rather than reality-restrictions (the social/symbolic reality rather than the natural reality).

48. J. Habermas, *Truth and Justification*, *op.cit.*, pp. 39-40.

49. *Ibid.*, p. 265.

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consideration is a product of symbolic reflexion. Empirical knowledge is not in itself useful for critical purposes, because it is not (according to Habermas) symbolically shaped, hence no normativity springs from it. Thus, the shift in Habermas' thought does not lead to a shift in his view on Foucault.

IV.

The opening problem of this paper addressed the standing of Foucault's writings as critical, given his non-universalizing approach to the topics that he investigates. Yet we have seen that locality is not necessarily an impediment to critique. Rather, a concept of critique should be evaluated as to its explication of the tension between normativity and reality. On this score, Foucault ascribes to an alternative notion of critique: critique as receptive rather than (or better: in addition to) reflexive. Critique as receptivity of how reality is limited through a normative grip, and how reality resists this limitation. This approach generates critique even where it at the outset did not seem to be called for (because of the "invisibility" of the problems).

Kant's famous "Two sources" (*Zwei-Quellen*) statement serves as the motto for this essay. His distinction can cast a new light on the relationship between Habermas and Foucault. In the statement, Kant introduces the view that any relation to worldly matters has to be understood in heterogenous terms, i.e., as a heterogenous compound of active/creative (reflexive) and passive/affective (receptive) elements (in pragmatic terms: a compound of Doing and Undergoing). The genuinely decisive difference between Habermas and Foucault as to the notion of critique is to be found in this distinction: whereas Foucault focuses on the critique that can spring from a receptive attitude – critique as something that is "forced" upon us – Habermas sees critique as reflexive arguments[50] between free and reflexive agents evaluating the normativity of each other. Hereby Foucault gives us a tool to understand how critique can pop up even if there seems to be no problem at the outset, whereas Habermas gives a good account of how critique functions as soon as the problems are detected.

Often the difference between the two has been described as one between Habermas, the thinker of intersubjectivity, and Foucault, focussed on otherness. As Thompson has shown, this distinction, rather than exhausting a fundamental difference, points at a difference in emphasis. The turn in Habermas' thought towards the otherness-aspect does not result in a new concept of critique or a re-evaluation of Foucault's oeuvre.

50. But *not* constructive – cf. Habermas, *The Philosophical Discourse of Modernity*, *op.cit.*, p. 350.

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Nor should this be a big surprise, because both Habermas and Foucault show that otherness and intersubjectivity cannot be separated as two wholly independent aspects of worldly relations. On the one hand, Foucault could point out that intersubjectivity is a (perhaps special) kind of otherness that limits the subject-object relation. On the other hand, Habermas could point out that otherness (as a discursive phenomenon) has to be understood through communicative (i.e., intersubjective) concepts. He emphasizes intersubjectivity in his concept of critique because it has a more "spontaneous" (reflexive at the outset) character (intersubjectivity represents a relationship between active, evaluating agents that are dependent on mutual recognition), whereas Foucault's emphasis on the non-conceptual, breaking and limiting aspects (the "dead" aspects of otherness) obviously is motivated by the receptive understanding of critique. The decisive difference between the critical approaches of Foucault and Habermas should rather be found in the reflexive/receptive-distinction. Whereas Foucault thinks of critique as something that originates from a demonstration of the reductive implications of normative horizons – in relation to the reality towards which these horizons are pointing – Habermas thinks of critique as an active reflexion that evaluates the systematic validity of arguments.

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Moral Orthopedics: A Foucauldian Account of Schooling as Discipline

Roger Deacon

Introduction

Michel Foucault seldom gave direct and concerted attention to the field of education, and yet education is often mentioned, implied or indirectly discussed in his corpus.[1] Comprehensively drawing together, from across his entire oeuvre of books, articles and interviews, all Foucault's

1. Only in two early 1970s texts – the first an interview, and the second a general discussion – does Foucault (having briefly headed the Department of Philosophy at the newly-established University of Vincennes and recently appointed to the Collège de France) focus primarily and almost exclusively on education: Michel Foucault, "J. K. Simon: A Conversation with Michel Foucault," *Partisan Review*, 38, 2 (1971), and Michel Foucault, "Revolutionary Action: 'Until Now,'" in *Language, Counter-Memory, Practice: Selected Essays and Interviews*, ed. Donald F. Bouchard (Oxford: Blackwell, 1977 [1971]). In three other works, all dating from the mid-1970s, educational issues figure prominently, though only in specific sections: the best known of these is Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Harmondsworth: Peregrine, 1986 [1975]), particularly Part III. The others are a lecture given in Brazil, Michel Foucault, "Truth and Juridical Forms," in *The Essential Works of Foucault 1954-1984, vol.3: Power*, ed. James Faubion (Harmondsworth: Penguin, 2000 [1973]), and an interview on French radio, Michel Foucault, "Talk Show," in *Foucault Live: Collected Interviews 1961-1984*, ed. Sylvère Lotringer (New York: Semiotexte, 1996 [1975]). Finally, there are a few scattered passages referring to aspects of education in Michel Foucault, *The History of Sexuality: An Introduction* (Harmondsworth: Penguin, 1981 [1976]); Michel Foucault, *The Use of Pleasure: The History of Sexuality Vol.2* (Harmondsworth: Penguin, 1987 [1984]); Michel Foucault, "The Subject and Power," Afterword to Hubert L. Dreyfus and Paul Rabinow *Michel Foucault: Beyond Structuralism and Hermeneutics* (Brighton, Harvester, 1982); Michel Foucault, "The Ethic of Care for the Self as a Practice of Freedom – An Interview with Michel Foucault," *Philosophy and Social Criticism* 12, 2/3 (1987 [1984]); and Michel Foucault, "Discourse and Truth: the problematization of parrhesia," tape recordings of six lectures at the University of California, Berkeley, Oct-Nov.1983: BdS n§ D213, ed. J. Pearson, 1985; re-edited by Webmasters, 1999 (Evanston, Illinois: Northwestern University, 1999) http://perso.club-internet.fr/kmille/discourse.htm.

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references to education, this article contributes to the exploration and analysis of the establishment and mechanics of schooling as a society-wide disciplinary technology.[2] Central to such a Foucauldian account is an examination of the development of new educational methodologies and relays of power and knowledge through which individual and collective subjects could be managed, their context regulated, their capacities augmented and their effects channeled. Via the pedagogical manipulation of space and time, schooling facilitated the production and circulation of knowledge amongst bodies under controlled conditions, including relations of teaching, learning, micro-discipline and lateral outreach.

Second, the combination of an expanding school population and the enhanced training of increasing numbers of teachers, along with assistants and monitors, made possible, indeed required, a kind of 'moral orthopedics' which over a period of centuries slanted away from external vengeance and towards internal amendment. Though cumbersome, these initial disciplinary tendencies also contributed to the creation of a specialized time of schooling, and ultimately to the reconceptualization of childhood. In turn this prompted a proliferation of new, especially sexual, anxieties about children and a reorganization of adult-child relationships and of the family, in conjunction with an intensification of reciprocal and self-surveillance. Finally, it will be shown how, in the wake of the intertwining of all these diverse material technologies of discipline, the field of early modern education eventually gives birth to a host of scientific pedagogies.

The Establishment of Schooling

A Foucauldian account of the "disciplinarization" of the school, and its establishment as the predominant form of modern educational provision, includes and takes further conventional approaches which have tended to over-emphasize either the impact of calls for reform by thinkers like Comenius, Locke and Rousseau, the sovereign requirements of the

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2. Two other important areas for analysis – which are not discussed here in any detail – can be discerned in Foucault's discussions of education: an historical or 'technico-political' account of the rise of the school, and the contemporary implications of discipline in education understood as a "block of capacity-communication-power." Aspects of these areas of analysis have been briefly touched on elsewhere (see Roger Deacon, "Truth, Power and Pedagogy: Michel Foucault and the Rise of the Disciplines", *Educational Philosophy and Theory*, 34, 4 (2002), pp. 435-458), but are also currently the subject of more detailed investigations: Roger Deacon, "From Confinement to Attachment: Foucault on the Rise of the School," forthcoming; and Roger Deacon, "Capacity-Communication-Power: Foucault on Contemporary Education," forthcoming.

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consolidating national state, the needs of the capitalist economy or the struggles of various social classes.[3] Without discounting these arguments, or even the exceptionally narrow and atheoretical minutiae of social histories, a Foucauldian account pays particular attention to the manner in which apparently minor or marginal events, techniques and processes both make possible and are utilized and colonized by larger, more global mechanisms; and on this basis suggests that modern education was fabricated out of a diverse range of contingent, discontinuous, interdependent and material disciplinary technologies. The early modern school, at first merely one amongst many competing strategies aimed at rationalizing the management of individuals,[4] passed through several distinct but overlapping stages, each characterized by a particular relationship between large-scale, totalizing mechanisms of social regulation and small-scale, individualizing techniques of self-discipline.

One of the school's first functions, in the period of the Great Confinement (1600-1750), was the negative one of neutralizing disorder, a function which was soon supplemented by an emphasis on socially productive and personally corrective labour.[5] Though schools, along with other mechanisms of social regulation, tended to be perceived as inefficient, poorly regulated and doing more harm than good,[6] the existence of prior models of educational discipline and the self-perpetuating effects of confinement made it possible for them to replicate themselves and to prompt the restructuring of existing technologies.[7] Furthermore, both the state apparatuses of absolute sovereignty and emerging new policing mechanisms, and both dominant and subordinate classes, were able to impose, utilize or appropriate schooling.[8] Moreover, contrary to certain misconceptions about Foucault's work, the early modern school was in many ways a model for the prison and the Panopticon itself, rather than the other way around.[9]

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3. See, *inter alia*: Margaret Archer, *Social Origins of Educational Systems* (London: Sage, 1979); Ellwood Cubberley, *The History of Education* (Cambridge, MA: Riverside Press, 1948) http://www.gutenberg.org/dirs/etext05/8hsed10.txt; Andy Green, *Education and State Formation: The Rise of Education Systems in England, France and the USA* (London: Macmillan, 1990); and Ian Hunter, *Rethinking the School: Subjectivity, Bureaucracy, Criticism* (St. Leonard's, Australia: Allen & Unwin, 1994).

4. Roger Deacon, *Fabricating Foucault: Rationalising the Management of Individuals* (Milwaukee: Marquette University Press, 2003).

5. Michel Foucault, *Madness and Civilization: A History of Insanity in the Age of Reason* (London: Routledge, 2001 [1961]), pp. 42-47.

6. Foucault, *Discipline and Punish*, *op. cit.*, p. 219.

7. *Ibid.*, p. 11.

8. Foucault, "Truth and Juridical Forms," *op. cit.*, pp. 60-67.

9. Foucault, *Discipline and Punish*, *op. cit.*, p. 173.

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As simple confinement slowly mutated into more complex forms of "attachment" – a "sequestration ... aimed at inclusion and normalization" whereby "[t]he school doesn't exclude individuals, even in confining them: it fastens them to an apparatus of knowledge transmission"[10] – the emphasis on the correction and conversion of individuals became predominant. In particular, schooling as discipline began to pay explicit attention to calculating and assuring the future *potential* of the young.[11] Now that "[t]he problem was no longer how to educate the uneducated, but how to change the way in which children were already educated, that is to say how to alter the way in which children were already trained up,"[12] the school had crossed the disciplinary threshold whereby power and knowledge spirally reinforced each other, and this in turn opened up a myriad of possibilities for the impact of positive discipline on future potential.

The age of confinement had provided the first, negative, enduring image of modern discipline: "the discipline-blockade, the enclosed institution, established on the edges of society, turned inwards towards negative functions: arresting evil, breaking communications, suspending time;" by contrast, the age of attachment represented the other, more positive extreme of "the discipline-mechanism: a functional mechanism that must improve the exercise of power by making it lighter, more rapid, more effective, a design of subtle coercion for a society to come."[13] This centuries-long shift from negative to positive features of discipline was of primary importance in promoting the idea of mass schooling. It also went hand-in-hand with, and to some extent was made possible by, the construction of new teaching methodologies, the application of new forms of micro-discipline, the apportionment of time, the management of sexuality, the manipulation of bodies, the development of lateral controls, the production and extraction of knowledge and the reappraisal of curricula and learning.

The Mechanics of Discipline

Schooling in itself had been a disciplinary response to the need to manage growing populations; within the progressively discriminating space of the schoolroom the productive regulation of large numbers of pupils also required new methodologies. Slowly, the common, individual-

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10. Foucault, "Truth and Juridical Forms," *op. cit.*, pp. 78-9.
11. *Ibid.*, p. 57.
12. Karen Jones and Kevin Williamson, "The Birth of the Schoolroom," *Ideology and Consciousness*, 6 (1979), p. 86.
13. Foucault, *Discipline and Punish*, *op. cit.*, p. 209.

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ized one-on-one teacher-pupil relationship of the ubiquitous private day-schools was supplemented and eventually replaced by an expansion of the equally tried-and-tested (at tertiary level) monitorial method, whereby teachers individually tutored a small number of the older or more advanced pupils, who then tutored the other pupils. The development of the monitorial method indicated that "the disciplinary gaze did, in fact, need relays":[14] to function effectively, supervision required a much more integrated, dedicated and specialized personnel than existed in the form of poorly trained private teachers, intermittently visiting inspectors and indifferent guild masters. Aside from an increase in the number of teachers, and growing differentiation between managerial, support and teaching functions, a whole series of supervisors emerged from the ranks of pupils themselves – "intendants, observers, monitors, tutors, reciters of prayers, writing officers, receivers of ink, almoners and visitors"[15] – often invested with moral responsibility for, and not only administrative authority over, other pupils.[16] The monitorial or 'mutual' method greatly facilitated – though also rendered more complicated – processes of surveillance, control, punishment and evaluation both in and outside the classroom, and its effects linger on today in the form of various student representative and prefect systems. It was accompanied and eventually superseded, however, by the 'simultaneous method' (attributed to De La Salle, but probably much older and more widespread) of direct group instruction by a single teacher. This more positive 'machinery of moral training' made the teacher not merely a panoptic supervisor of monitors but more directly and integrally involved with each child,[17] and in turn this development was premised on the more rigorous training of teachers, the full development of national systems of education and the rise of educational psychology: "The Normal is established as a principle of coercion in teaching with the introduction of a standardized education and the establishment of the *écoles normales* (teachers' training colleges)."[18]

Since the sixteenth century in the case of schools, and well before that in the universities (effectively the first institutions of mass education[19]),

14. Foucault, *Discipline and Punish*, *op. cit.*, p. 174.
15. *Ibid.*, p. 175.
16. *Ibid.*, p. 316.
17. Jones and Williamson, "The Birth of the Schoolroom," *op. cit.*, p. 87.
18. Foucault, *Discipline and Punish*, *op. cit.*, p. 184.
19. Emile Durkheim, *The Evolution of Educational Thought: Lectures on the formation and development of secondary education in France* (London: Routledge and Kegan Paul, 1977), p. 74.

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pedagogues had been aware of the need for "some meane which in a multitude maye worke obedience."[20] Mulcaster himself still favoured the visible application of the rod, the increasingly severe use of which in subsequent centuries had appalled humanitarians. Yet the 'micro-disciplinarization' of schooling followed neither a more 'caring,' humanitarian and civilizing trajectory, nor adopted a posture of clinical or bureaucratic indifference.

> There is ... a judicial power within the school which simulates – in a rather arbitrary fashion, if one doesn't consider its general function – the judicial model of power. Why must one punish and reward in order to teach something to someone?[21]

The answer lies in the laterality and polyvalence of disciplinary power: the apparently 'simple' transfer of knowledge from one person to another cannot be disentangled from those authoritative processes which seek to instill discipline into the deepest recesses of the school system, into the moral fibres of its inmates. "In discipline, punishment is only one element of a double system: gratification-punishment,"[22] one which took to a new level the Jesuit approach of seeking to avoid post facto punishment altogether by winning, in advance, the heart of the pupil.[23] Indeed, within these "closed pedagogical spaces functioning through rewards and punishments, etc.,"[24] what one finds "is a transposition of the system of indulgences," a "penal accountancy" of good and bad (or 'black') marks, a "micro-economy" which "operates a differentiation that is not one of acts, but of individuals themselves, of their nature, their potentialities, their level or their value."[25]

On the basis of this future-oriented if still religiously-inflected micro-discipline, punishment began to shift away from the public, the spectacular and the physically violent, to the personal, the mundane and the psychologically compelling, punishments intended to make children "feel the offence they have committed," from 'humiliation' to 'a certain coldness, a certain indifference.'[26] Consider the advice of that philosophical contem-

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20. Richard Mulcaster, *Positions Concerning the Training Up of Children* [1581], ed. W. Barker; modified electronic version of editor's printed text (Toronto: University of Toronto Press, 1994), http://www.ucs.mun.ca/~wbarker/positions-txt.html, p. 277.
21. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 83.
22. Foucault, *Discipline and Punish*, *op. cit.*, p. 180.
23. *Ibid.*, p. 180.
24. Michel Foucault, "Questions of Method: an interview with Michel Foucault," *Ideology and Consciousness*, 8 (1981), p. 6.
25. Foucault, *Discipline and Punish*, *op. cit.*, p. 181.
26. De La Salle, quoted in Foucault, *Discipline and Punish*, *op. cit.*, p. 178.

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porary of De La Salle's: "caress and commend them when they do well, shew a cold and neglectful countenance to them upon doing ill .... [T]his ... will ... work more than threats or blows, which lose their force when once grown common, and are of no use when shame does not attend them."[27] This is not to say that 'threats or blows' are to be entirely abjured; flogging and solitary confinement still have their place, but the increasing focus on positively fashioning or transforming the child placed greater emphasis on the humiliation of "the bench of the 'ignorant'" and – particularly – on intensified and repeated training, as in 'writing lines:' "To punish is to exercise."[28] Punishment becomes less about external retribution than about internal reform, containing a built-in pedagogical purpose; a kind of social and moral orthopedics,[29] it is no longer about "punishing individuals' infractions, but [about] correcting their potentialities."[30]

Though the disciplines initially took root in secondary schools (a few of which were models for the application of discipline in other institutions), from the end of the seventeenth to the beginning of the nineteenth century it was the primary school which developed the use of time with the greatest subtlety, surpassing even the efforts of the army and the factory.[31] The system of verbal and non-verbal commands introduced in the late seventeenth century by the Brothers of the Christian Schools – such that, on hearing a signal, the good pupil would "imagine that he is hearing ... the voice of God himself calling him by his name" and will respond as did Samuel: 'Lord, I am here'[32] – culminated in the nineteenth century Lancastrian monitorial system with successive rows or 'drafts' of pupils marshalled by supervisors drawn from their own ranks.[33] No time was to be wasted, not a moment left unused or unproductive. The school both refined and modified disciplinary time, enhancing its value and its usefulness by adding it up and capitalizing it, dividing duration into successive or parallel segments, and serializing these from the simple to the complex.[34] The vision of a progressive accumulation of knowledge so dear to

27. John Locke, in Wade Baskin, *Classics in Education* (London: Vision Press, 1966), p. 348, emphasis in the original.
28. Foucault, *Discipline and Punish*, *op. cit.*, pp. 179-180.
29. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 57; Foucault, *Discipline and Punish*, *op. cit.*, p. 10.
30. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 57.
31. Foucault, *Discipline and Punish*, *op. cit.*, p. 165.
32. De La Salle, quoted in Foucault, *Discipline and Punish*, *op. cit.*, p. 166.
33. Jones and Williamson, "The Birth of the Schoolroom," *op. cit.*, p. 73.
34. Foucault, *Discipline and Punish*, *op. cit.*, pp. 157-8.

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early modern science, and the grouping and partitioning of curricula, the evolutionary differentiation and classification of learning cycles and phases, the separation of ages and standards, of novices and veterans and of the elementary and the advanced, so central to modern systems of education, are all products of disciplinary time.

At first, schools and other disciplinary institutions were invested with the "very curious property of involving control over, responsibility for, all or nearly all of individuals' time."[35] This property, which contrasts against earlier, feudal forms of control of place, locality or "local geographic insertion,"[36] was undoubtedly accentuated by early industrialization, which required that "[p]eople's time had to be offered to the production apparatus; the production apparatus had to be able to use people's living time, their time of existence."[37] Here is another instance of the manner in which a Foucauldian approach has close affinities with more avowedly materialist or Marxist emphases on the economic foundations of educational change. It should be borne in mind, however, that, for Foucault, the 'production apparatus' is much more than just industrial or economic: "not only 'production' in the strict sense, but also the production of knowledge and skills in the school, the production of health in the hospitals, the production of destructive force in the army."[38] Education is itself a form of production: "Education produces producers, it produces those who demand [i.e. users or consumers] and at the same time, it normalizes, classes, divides, imposes rules and indicates the limits of the pathological."[39]

The initial attempts to buy people's "entire living time . . . once and for all" – in the form of strict, all-encompassing, institutional confinement in workers' barracks, 'prison factories,' 'convent factories,' even 'boarding factories,' those "closed pedagogical institutions that would open little by little in the course of the [nineteenth] century"[40] – tended to be cumbersome, costly, unmanageable and neither effective nor optimal. The traditional time-table, for instance, was "essentially negative; it was the principle of non-idleness."[41] Thereafter a more "positive economy"[42] was instituted by successive disciplinary techniques, exhaustively extracting

35. Foucault, "Truth and Juridical Forms," *op. cit.*, pp. 79-80.
36. *Ibid.*, p. 80.
37. *Ibid.*
38. Foucault, *Discipline and Punish*, *op. cit.*, p. 219.
39. Foucault, "Talk Show," *op. cit.*, p. 107.
40. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 80.
41. Foucault, *Discipline and Punish*, *op. cit.*, p. 154.
42. *Ibid.*

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usefulness from time under the aegis of a series of more diffuse institutions. In the case of factory workers, the establishment of savings banks, followed by the provision of unemployment insurance, and later the attractions of advertising and the consumer society, were all intended to ensure that those laid-off would neither starve nor spend their reserves indiscriminately.[43] Similarly in the field of education, numerous mechanisms have sought to make it possible that "people's time, though it was not really extracted in its entirety, was controlled so that it became labor time,"[44] from concerted interventions in pre-, post- and home-schooling and vocational training to Sunday schools, extra-mural activities and managed sport and recreation of all sorts. Today, the concept of lifelong learning takes us another step closer to a set of institutionalized pedagogical practices which will "enclose individuals in their bounds throughout their existence."[45]

Thus, deriving originally from the 'measured,' 'punctuating' time of the monasteries, the mystics and the religious orders, over a span of centuries "disciplinary time . . . was gradually imposed on pedagogical practice – specializing the time of training and detaching it from the adult time, from the time of mastery."[46] Time, even before it can be 'used productively,' or 'made available' for various tasks, needs to be understood in a particular way, exist in a particular format, and invested in or possessed by particular people; it follows that disciplinary time was not only refined and developed through schooling but also made the specialized time of schooling possible in the first place. Ariès has argued that, up until the seventeenth century, the high infant mortality rate rendered most adults rather indifferent to childhood.[47] The pressure of an expanding population combined with declining infant mortality and increased longevity, as well as the differentiation of domestic space and a sharper demarcation between the public and the private, highlighted childhood as a problem of survival to adulthood, not merely at birth; this in turn invested relations between adults and children with new obligations (care, contact, hygiene, cleanliness, proximity, suckling, clothing and exercise),[48] even as adulthood lengthened and the entirely new stage of adolescence came into being.

43. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 81.
44. *Ibid.*, p. 80.
45. *Ibid.*, p. 57.
46. Foucault, *Discipline and Punish*, *op. cit.*, p. 159.
47. Phillipe Ariès, *Centuries of Childhood* (London: Jonathan Cape, 1962), p. 37.
48. Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, ed. Colin Gordon (New York: Pantheon, 1980), p. 172.

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The Time of the Child

On the one hand, disciplinary time specialized the time of training and detached it from adulthood; on the other hand, the reconceptualization and expansion of childhood underpinned disciplinary time by creating a need for specialized training institutions separated from families, churches and guilds. In keeping with the trend identified thus far, the new conception of childhood was first framed negatively, in terms of protecting the innocent child from the various dangers that might beset it, such as disease, ignorance, immorality or adult sexuality. At almost the same time, however, and increasingly thereafter, it was felt that children were also to be positively strengthened by developing their physiques, character and reason:[49] "A child began to be regarded less as a piece of property of the father and more as an individual whose potential should be developed and whose opinions should (within limits) be respected."[50] Amidst a proliferation of new anxieties about children, exhortations to parents, admonitions to wet-nurses and advice to teachers, all centered around sexuality, the beginning of the eighteenth century witnessed a "reorganization of the relations between children and adults, parents, educators; it was an intensification of the intra-family relationships; it was childhood as a common area of interest for parents, the educational institutions, the public health authorities; it was childhood as the training-ground for future generations."[51]

Though the early modern war around childhood sexuality was initially localized in matters of spiritual direction and conscience, it was in the secondary schools, and soon thereafter the family, that the greatest battles were fought, as witnessed "in the entire controversy . . . over the private or public, institutional or familial education of children."[52] At home, parents, older siblings, tutors and servants, and at school, teachers and older pupils, constituted in relation to the child potential sources of danger, contagion, perversion and bad influence. The consequent reorganization of adult-child relationships helped to both constitute and regulate, occasionally to forbid but more often to utilize, childhood sexuality as a lever and a "network of power over children,"[53] not to mention making possible new forms and applications of knowledge and permitting the

49. Ariès, *Centuries of Childhood*, *op. cit.*, p. 116.

50. Lawrence Stone, "The Educational Revolution in England, 1560-1640," *Past and Present* 28 (1964), p. 70.

51. Michel Foucault, "Power and Sex: An Interview with Michel Foucault," *Telos* 32 (1977), p. 154.

52. Foucault, *The History of Sexuality*, *op. cit.*, p. 110.

53. Foucault, "Power and Sex," *op. cit.*, p. 154.

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reciprocal surveillance of parents and priests, teachers and doctors, adults in general. In the process, schools became both targets of and relays for concerns about childhood, their functions multiplying even as they came under scrutiny. The 'disciplinarization' and restructuring of schools, which, "with their large populations, their hierarchies, their spatial arrangements, their surveillance systems, constituted, alongside the family, another way of distributing the interplay of powers and pleasures,"[54] was thus to a significant degree an effect of early modern anxieties about sex.

In keeping with this "*pedagogization of children's sex*,"[55] it became more pressing, and more justifiable, for various institutions to separate children from adults, younger children from older children and middle class from lower class children.[56] Within the school, which only towards the end of the eighteenth century began to develop, first, functionally differentiated spaces, and later, separate classrooms,[57] individual pupils were to be distributed spatially and serially, not only according to progress, age or level of achievement but also character, cleanliness, even morality: "a libertine [should be placed] either alone or between two pious pupils."[58] A corresponding impetus to the development of the school as a specialized disciplinary institution were the efforts to remove certain categories of children from 'inappropriate' institutions like workhouses, poorhouses, prisons and guilds, or even from other existing schools whose moral or religious outlook was deemed unsuitable; a century later, the same trend would 'rescue' most children from the labour force altogether.[59] In addition, the undifferentiated administration of corporal punishment to adult and child alike came to be seen as increasingly anomalous.[60]

The increasing institutionalization of people during the early modern age, even if and because this confinement varied widely relative to different institutions, facilitated and rendered more rigorous and continuous the

54. Foucault, *The History of Sexuality*, *op. cit.*, p. 46.
55. *Ibid.*, p. 104, emphasis in the original.
56. Ariès, *Centuries of Childhood*, *op. cit.*, p. 294.
57. Jones and Williamson, "The Birth of the Schoolroom," *op. cit.*; see also Ian Hunter, *Culture and Government: The Emergence of Literary Education* (London: Macmillan, 1988), p. 59.
58. De La Salle, in Foucault, *Discipline and Punish*, *op. cit.*, p. 147.
59. Bernadette Baker, 'Childhood' in the Emergence and Spread of U.S Public Schools,' in Thomas Popkewitz and Marie Brennan, eds, *Foucault's Challenge: Discourse, Knowledge, and Power in Education* (New York: Teachers College Press, 1998), pp. 121-23.
60. Rebecca Bushnell, *A Culture of Teaching: Early Modern Humanism in Theory and Practice* (Ithaca: Cornell University Press, 1996), p. 33.

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management not only of people's time but also their very bodies. The body which, up to the end of the eighteenth century, had been "made to be tortured and punished" became, in the nineteenth century, "something to be molded, reformed, corrected, something that must acquire aptitudes, receive a certain number of qualities, become qualified as a body capable of working."[61] Consider, in this light, the widespread dissemination of De La Salle's step-by-step recommendations for disciplining the body through the gymnastics of handwriting.[62] Moreover, the desire to regulate sexuality prompted diverse groups and institutions to expand their purview in polymorphic and polyvalent ways. All disciplinary institutions implied "a general discipline of existence that went far beyond their seemingly precise ends:"[63] for example, factory owners, hospital administrators and school principals worried as much about sexual immorality as about work, healing or learning. "Why is it," Foucault asked, "that in schools people weren't just taught to read, but also obliged to wash?"[64] As both Ariès[65] and Elias,[66] and Foucault himself,[67] have shown, early modern concerns with health and hygiene were associated with a growing and urbanizing but largely unregulated population, and in turn with the Physiocratic concept of 'population' as the measure of the wealth of a kingdom – "a Multitude of Inhabitants is the greatest Strength and best Support of a Commonwealth."[68] However, it was only after the fact that hygiene came to be offered as a justification for greater regulation: indeed, Braudel[69] has pointed out that "[t]he West even experienced a significant regression from the point of view of body baths and bodily cleanliness from the fifteenth to the seventeenth centuries," with priests fulminating (in yet another instance of the initial negativity of disciplinary power) against the moral dangers of baths. Thus, while "[a] certain number of reasons having to do with hygiene can be adduced[,] . . . these are

61. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 82.
62. Foucault, *Discipline and Punish*, *op. cit.*, pp. 152, 315.
63. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 81.
64. *Ibid.*, p. 82.
65. Ariès, *Centuries of Childhood*, *op. cit.*, p. 129.
66. Norbert Elias, *The Civilizing Process*, revised ed. (Oxford: Blackwell, 2000), p. 97.
67. Foucault, *Power/Knowledge*, *op. cit.*, p. 172.
68. William Cadogan, *An Essay upon Nursing and the Management of Children, from their Birth to Three Years of Age, By a Physician*, 3rd ed. (London: Foundling Hospital, 1749) http://www.neonatology.org/classics/cadogan.html.
69. Fernand Braudel, *Civilization and Capitalism, 15th to 18th Century: Vol. 1: The Structures of Everyday Life* (London: Fontana, 1985), p. 329.

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marginal" in comparison with disciplinary institutions' self-assumed responsibility for "existence as a whole."[70]

"Existence as a whole," as might be expected, extended well beyond the formal school gates. Foucault conceived of all institutions, from the nuclear family to the state, not according to the conventional model of sovereignty, as unitary and self-contained, but in terms of how the subjects, practices and apparatuses which make up the institution – in the case of the school, not only teachers and pupils, infrastructure and governance, curriculum and pedagogy, but also families, parents, communities, employers, doctors, lawyers, priests, psychologists, social workers and the police – interact and support one another. Hence, the disciplinary web within which the school constituted only a single node tended to extend itself throughout society, in the process developing a whole margin of lateral controls: "Thus the Christian School must not simply train docile children; it must also make it possible to supervise the parents, to gain information as to their way of life, their resources, their piety, their morals."[71] In the hope that the good instruction of children might rub off on their parents,[72] the absence or bad behaviour of a child offered a pretext for a teacher to question the neighbours, to delve into the parents' background and to inquire about the number of beds in their house, and certainly not to leave without providing alms, a religious picture or additional beds.[73]

Extending beyond themselves in this way, the individualizing tendencies of disciplinary institutions intertwined with totalizing concerns about an expanding, healthier and longer-lived population, the concept of which during the seventeenth century was shown to constitute a specific and more inclusive entity than the family, with its own statistical regularities and cycles. In this regard, Foucault identified "a progression from the crudely populationist arguments of the mercantilist epoch" to "much more subtle and calculated attempts at regulation" of an increasing birthrate,[74] which subtle procedures would, in time, become anchorage points for modern racism. However, given the importance of managing the problem of childhood, the family, though unseated from its once central position as model for the government of a state,[75] and even in its more

70. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 82.
71. Foucault, *Discipline and Punish*, *op. cit.*, p. 211.
72. Jones and Williamson, "The Birth of the Schoolroom," *op. cit.*, p. 76.
73. Foucault, *Discipline and Punish*, *op. cit.*, p. 211.
74. Foucault, *The History of Sexuality*, *op. cit.*, p. 26.
75. Michel Foucault, "Governmentality," *Ideology and Consciousness* 6 (1979), pp. 9-10.

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restricted, nuclear form, has remained a nonetheless privileged instrument of governance, providing information on the state of the population (demography; age; longevity; mortality rates; disease; marriage and procreation; education and training; income; occupations).[76] And today, the family is regaining some of its lost centrality in education, in the form of direct parental and community involvement in financing and governing public schools, as well as in the phenomenon of home-schooling.

Epistemological Power

Schooling taught not only punctuation, but also punctuality, and not only reading, but also hygiene; it taught that learning should not only entail gratification but also requires chastisement. In addition, 'traversing and driving' these disciplinary procedures for managing time and bodies was yet another power, neither economic nor political nor judicial, and aimed at the production, application and extraction of useful knowledge. This "epistemological power – that is, a power to extract a knowledge from individuals and to extract a knowledge *about* those individuals who are subjected to observation and already controlled by those different powers,"[77] functioned in two ways. First, a pupil's or teacher's personal knowledge of how schools function, along with any technical improvements and micro-adaptations they might make in order to function better within this context, "are immediately recorded, thus extracted from his practice, accumulated by the power exercised over him through supervision" and "gradually absorbed into a certain technical knowledge of production which will enable a strengthening of control."[78] Second, epistemological power generates "a observational knowledge, a clinical knowledge," ranging from educational psychology through teacher appraisal to whole school evaluation, which, stemming from observation, recording, classification, analysis and comparison, also makes possible new forms of control.[79] The gradual shift towards more child-centered pedagogies during the course of the twentieth century is an instance of this latter form of epistemological power. Similarly, the strong current emphasis on pupil participation, at the level of classroom activities as well as that of school governance, and attempts to tie parents and communities legally, financially and managerially more closely into the everyday life of the school, is premised at least as much on a desire to know and therefore

76. *Ibid.*, pp. 16-17; Foucault, *Power/Knowledge*, *op. cit.*, p. 171.
77. Foucault, "Truth and Juridical Forms," *op. cit.*, p. 83, emphasis in the original.
78. *Ibid.*, p. 84.
79. *Ibid.*

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manage people better, as on a desire to eliminate 'idleness' once and for all, by 'attaching' the maximum number of people to the tasks at hand, for greater utility and regulation. The Enlightenment bequeathed to the present, in the same breath, disciplinary procedures and progressivist philosophies, rendering the knowledge-effects of relations of power as important in subjecting individuals and populations as the power-effects of knowledge.

In general, "pedagogical methods were formed out of the child's own adaptations to school tasks, adaptations that were observed and extracted to become operational directives for institutions and forms of power brought to bear on the child."[80] Once again, the school was not unique in this respect. For example, in the process of morally regulating themselves dissenting groups deployed a range of knowledge-gathering techniques of reciprocal surveillance;[81] according to Adam Weishaupt, a founder of the Illuminati: "'I believed that I was under the strictest observation of many persons not known to me; towards this end I sought to fulfil my duties most accurately, because nothing seemed as certain to me as that none of my actions went unnoticed.'"[82] The prison, too, "has to extract unceasingly from the inmate a body of knowledge that will make it possible to transform the penal measure into a penitentiary operation; which will make of the penalty required by the offence a modification of the inmate that will be of use to society."[83] In schools, the examination constantly and formatively "extracted from the pupil a knowledge destined and reserved for the teacher."[84] The examination, an initially Jesuit ritual combining "the ceremony of power and the form of the experiment, the deployment of force and the establishment of truth,"[85] entered on the modern European scene in the context of the increasingly regular, extended and rigorous inspecting 'visits' to hospitals by physicians during the seventeenth century.[86] Much as "[m]edical knowledge of madness that benefits science rests without any doubt on an active experiment in social segregation based on anathema,"[87] so, too, knowledge of teaching

80. *Ibid.*, p. 84.
81. *Ibid.*, p. 63.
82. Quoted in Reinhart Koselleck, *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society* (Berg: Oxford, 1988), p. 78 n. 8.
83. Foucault, *Discipline and Punish*, *op. cit.*, p. 251.
84. *Ibid.*, p. 187; Foucault, "Truth and Juridical Forms," *op. cit.*, p. 59.
85. Foucault, *Discipline and Punish*, *op. cit.*, pp. 184-5.
86. *Ibid.*, pp. 185-6; Foucault, *Madness and Civilization*, *op. cit.*, pp. 256-258.
87. Georges Canguilhem, "Report from Mr. Canguilhem on the Manuscript filed by Mr. Michel Foucault, Director of the Institute Français of Hamburg, in Order to Obtain Permission to Print his Principal Thesis for the Doctor of Letters," *Critical Inquiry* 21 (1995), p. 279.

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and learning, and of teachers and pupils, that benefits education, is premised upon the identification and categorization of adults and children through mechanisms that confine, segregate and discipline.

Eighteenth century pedagogy may not have invented the "ignorance" from which entire populations were alleged to suffer, but it made an immense contribution to its production – along with "common sense" and other discredited or waning knowledges like astrology and alchemy – as both target of and support for the expansion of schooling. Up to the present, the school's arsenal of formal assessments, psychological evaluations and selection procedures, all of which assume some degree of ignorance or other deficiency – personal, familial or social – in relation to the norm, not only permit a continuous extraction of knowledge from pupils, teachers and parents, but also, through the manufacture or conversion of those outside the norm (the delinquent and the disabled as much as the gifted), justify the school itself as an economically, politically and educationally useful mechanism. In the process, all participants – teachers as much as pupils, principals as much as parents, the educational bureaucracy as much as the surrounding community – are supervised, supervise each other and supervise themselves: "The judges of normality are present everywhere. We are in the society of the teacher-judge, the doctor-judge, the educator-judge, the 'social worker'-judge; it is on them that the universal reign of the normative is based; and each individual, wherever he may find himself, subjects to it his body, his gestures, his behaviour, his aptitudes, his achievements."[88]

In addition, the examination was accompanied by other writing techniques – like notation, registration, filing and tabling – and new opportunities for experimentation. For example, the writing techniques, which intensified individualizing procedures, were important disciplinary practices in the Masonic lodges: "The priestly regents of that order [of the Illuminati] began by following Jesuit models and introducing an accurate secret reporting system. Brethren were obliged to file sealed monthly reports about themselves – in moral candour – and their fellow brethren. 'Thus he must necessarily decipher and compromise himself and others, in writing.'"[89] Confined, under surveillance and earmarked for correction, the growing populations of disciplinary institutions were also, long before B. F. Skinner and his ilk, ideal targets for scientific experimentation, such as whether anyone could learn anything, or the

88. Foucault, *Discipline and Punish*, *op. cit.*, p. 304.
89. Koselleck, *Critique and Crisis*, *op. cit*, pp. 78-9.

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effects of solitary, mixed or co-education, or the effects of different systems of thought.[90] In short, "[t]he school became a place of elaboration of pedagogy . . . [and] the age of the 'examining' school marked the beginnings of a pedagogy that functions as a science."[91]

The subsequent proliferation of educational sciences (right until the present) was also an indication of the tendency for formal curricular change to lag well behind rather than precede socio-economic change or, in this case, the spread of disciplinary mechanisms. The actual content of educational knowledge only slowly divested itself of its classical, scholastic and overtly religious orientations, and also struggled to establish itself against local, everyday or popular knowledge. Many English schools as late as the middle of the nineteenth century were failing to inculcate 'socially acceptable' knowledge and values: pupils were far more conversant with the exploits of the highwayman, Dick Turpin, than with the name of their Queen, the deeds of Nelson or the commandments of Moses; they were even lacking in "that moral training ... which alone has worth in the eyes of the bourgeoisie."[92] In terms of learning, from the adoption of the monitorial method and increasingly thereafter as the discourse of educational psychology established itself, there was evidence of a shift from the inculcation and recitation of precepts to the explanation and internalization of principles, from what to think to how to think, "the exercise of understanding rather than memory."[93] For example, David Stow's 1839 "elliptical method" "does not allow the pupil to be the passive recipient, but compels him actively to exert his mind by filling up sentences designedly left incomplete."[94] Accompanying but distinct from this new approach to learning was an emphasis on the direct practical manipulation and study of objects. Here, the influence of the scientific revolution, and its protagonists from Bacon to Pestalozzi (not to mention the bureaucrats staffing the national state), belatedly came to secure its place in the curriculum – first alongside, but ever after increasingly at the expense of, grammar and God.

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90. Foucault, *Discipline and Punish*, *op. cit.*, p. 204.
91. *Ibid.*, p. 187.
92. Freidrich Engels, *The Condition of the Working Class in England* (Harmondsworth: Penguin, 1987), pp. 141-143.
93. Jones and Williamson, "The Birth of the Schoolroom," *op. cit.*, pp. 88-89.
94. Poor Law Commissioners' parliamentary report, England, 1841, p. 316, quoted in Jones and Williamson, "The Birth of the Schoolroom," *op. cit.*, p. 89.

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Conclusion

The real, material, technical and effective foundations of compulsory, universal, state-run education systems were laid in the process of the "disciplinarization" of the early modern school. Well before the bourgeoisie or the state fully realized its advantages, before the capitalist economy developed a need for its services, even before the well-known philosophical discourses of educational reform, the multiplying and self-perpetuating disciplinary technology of the school was making it possible for diverse populations to begin to accept and tolerate their steadily increasing subjection in the context of the modernizing world. The extension of disciplinary relays and the fabrication of new subjects; the selective and reciprocal extraction, exchange, circulation and distribution of new forms of knowledge, and the production and application of new scientific techniques and discourses; a decreasing emphasis on physiological and an increasing emphasis on psychological approaches to punishment; the productive management and use of time, space and bodies; the porosity of institutional boundaries, capable both of absorbing outside influences and of permitting the outward diffusion of internal procedures – it was thanks to each and all of these functions and procedures that the school now stands at the forefront of those modern institutions aimed at rationalizing the management of individuals.

While it is true that national education systems have developed an impetus (one might say, an inertia) quite independent of individual schools, and are likely, at least in the short to medium term, to maintain their weighty authority even in the face of burgeoning private and home-based alternatives, state control can take a variety of forms. It is for this reason that the development of an enhanced understanding of the functioning, effects and relative autonomy of modern educational systems requires a sensitivity not only to large-scale socio-economic forces but also to the specificity, multiplicity, differences and reversibility of everyday educational theory and practice. A Foucauldian perspective differs markedly from liberal and Marxist perspectives in not treating power as more or less equivalent to domination, and thus invites a closer analysis of the particular political, economic, judicial and epistemological relations of power which invest all educational institutions, and which are intimately interconnected with forms of knowledge. Given the increasing political and economic importance of all forms of education and training in the context of new worldwide

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demands for multi-skilled and self-regulated citizens,[95] Foucault's discussion of education, albeit comparatively slight in terms of his work as a whole, together with the more general concepts and analyses he developed, are likely to remain extremely helpful in making sense of our globalizing future.

95. For a globally relevant account of the promise and the problems of advanced education policy developments, which draws on the work of Emile Durkheim and Basil Bernstein as well as Foucault and makes particular reference to educational change in post-apartheid South Africa, see Johan Muller, *Reclaiming Knowledge: Social Theory, Curriculum and Education Policy* (London, RoutledgeFalmer, 2000). See also Roger Deacon, "Review Essay: '*Reclaiming Knowledge: Social Theory, Curriculum and Education Policy*,' by Johan Muller," *Journal of Education* 28 (2002), pp. 129-139.

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A New Image of Law: Deleuze and Jurisprudence[1]

Alexandre Lefebvre

> To act for liberty, to become revolutionary, yes, is to operate in jurisprudence.
>
> — Gilles Deleuze, *L'Abécédaire*

1. Jurisprudence: Toward a New Image of Law

Gilles Deleuze has left us a series of tantalizing remarks on jurisprudence. Consistently in his writings, Deleuze abjures law *in toto* as abstract, moralizing, and limiting. By contrast, in an interview, Deleuze remarks that "rights aren't created by codes and pronouncements but by jurisprudence. Jurisprudence is the philosophy of law, and deals with singularities, it advances by working out from singularities."[2] In another discussion, this time with Antonio Negri, Deleuze expresses a critical distinction between law and jurisprudence: "what interests me isn't the law [*la loi*] or laws [*les lois*] (the former being an empty notion, the latter uncritical notions), nor even law or rights, but jurisprudence. It's jurisprudence ultimately, that creates law, and we mustn't go on leaving this to judges."[3] Jurisprudence is vaunted as capable of unblocking the movements that law arrests; it is recommended as an institution able to honor the singular situation in contradistinction to the limitations of the "rights of man" and other empty eternal values.[4] Jurisprudence operates as what

1. I thank Melanie White for her extensive help with this paper and its concepts, and Paola Marrati for her seminars on Deleuze and her careful reading of this paper.

2. Gilles Deleuze, *Negotiations, 1972-1990*, tr. by Martin Joughin (New York: Columbia University Press, 1995), p. 153.

3. *Ibid.*, p. 169, my emphasis. In addition to these two comments on jurisprudence, the 'G' entry of Deleuze's *L'Abécédaire* is noteworthy for its sustained and concrete consideration of law, justice, and institutional jurisprudence. Gilles Deleuze, *L'Abécédaire de Gilles Deleuze, avec Claire Parnet*, (Paris:DVD Editions Montparnasse, 2004).

4. Deleuze, *Negotiations*, *op. cit.*, p. 122.

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we could call an institutionalized line-of-flight, a sanctioned yet deterritorializing power that "constantly threatens to bring what's been established back into question. . . . "[5] In brief, jurisprudence is a positive escape from the strictures of law.

Inspired by Deleuze's comments on the nature of jurisprudence, I evaluate the possibilities of a Deleuzian philosophy of law.[6] Despite his relentless critique of law, the purpose of this paper is to argue that Deleuze provides us with concepts capable of creating a positive philosophy of juridical law. This modifies both how we understand Deleuze's relationship to law, but more importantly how we come to understand law and jurisprudence. I proceed by three broad steps: 1. I begin by detailing Deleuze's critique of law, dividing it into four major themes: the critique of false repetition that converts singularities into particularities by rule of general law; the critique of distributive, equivocal difference distributed by judgments of good and common sense; the critique of moral law as state-centered; and the critique of human rights as abstract. While these critiques may appear distinct, together they constitute a concerted rejection of what I call the dogmatic image of law. Deleuze will then be seen to propose concepts expressly designed to replace law and institute true difference, repetition, and political action: true repetition will be seen as extra-legality *par excellence*; Deleuze will insist to have done with judgment; political philosophy will begin only with the ironic or humorous

5. *Ibid.*, p. 153.

6. As of yet, there has been no consistent and prolonged study of Deleuze in terms of a philosophy of law. Patton ably begins such a project in the last chapter in his *Deleuze and the Political* but more as a gesture and suggested direction than as a sustained undertaking. See Paul Patton, *Deleuze and the Political* (New York: Routledge, 2000). While insightful studies exist on the philosophy of law vis-à-vis deconstruction (see Drucilla Cornell, *The Philosophy of the Limit* (New York: Routledge, 1992)); Hegelian dialectics (see Jeanne L. Schroeder, *The Vestal and the Fasces* (Berkeley: University of California Press, 1998)); formal pragmatics (see Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, tr. by William Rehg (Cambridge: MIT Press, 1998)); and psychoanalysis (see Peter Fitzpatrick, *Modernism and the Grounds of Law* (Cambridge: Cambridge University Press, 2001)); Peter Goodrich, *Oedipus Lex: Psychoanalysis, History, Law* (Berkeley, CA: University of California Press, 1995); and Pierre Legendre, *Le désir politique de Dieu: étude sur les montages de l'état et du droit* (Paris: Fayard, 1988), no comparable study has been undertaken for Deleuzian philosophy (except for Gillian Rose's unsympathetic chapter in her *Dialectic of Nihilism: Post-Structuralism and Law* (Oxford: Basil Blackwell, 1984)). Such absence is surprising given that the themes Deleuze advanced over his entire oeuvre – complex repetition, production of sense, and creativity – are ideally suited to a renewed understanding of the philosophy of law, judgment, and jurisprudence.

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subversion of law; and human rights are to be replaced with user-groups and specific interventions of jurisprudence. This allows us to *preliminarily* characterize Deleuze's philosophical and political enterprise as one of "*lex* versus *jus*."[7] Deleuze's comments on jurisprudence can thus be understood as a thoroughgoing critique and replacement of scientific, natural, moral, and juridical law.

2. Upon outlining the critique of law, I detail how the mechanics of Deleuzian jurisprudence function. As Deleuze's commentators have noted, rather than strict in opposition, law and jurisprudence must operate together, in that laws create the axioms that jurisprudence engages case by case.[8] The case, then, comes to signal the site of the engagement between law and jurisprudence. In what follows, I rely heavily on Henri Bergson – and Deleuze's commentaries on Bergson, with his injunction to renew and extend Bergsonian concepts to new sciences[9] — in order to construe the legal case as a material image and the legal archive of previous cases and decisions as virtually existent. From this perspective, jurisprudence is characterized as a positive actualization; it is the resonance between the singularity of the case and the virtuality of the legal archive. By analyzing jurisprudence we arrive at a new image of law and not simply the discreditation of all types of law.

3. By outlining the process of jurisprudence, I arrive at several specifications of the new image of law provoked but not executed by Deleuze. First, a notion of juridical law properly conceived is not axiomatic or abstract. Rather, the law lives only in the inventive actualizations of jurisprudence (*the life of law*). Second, a law makes sense and achieves a determination only through problems. A case is nothing but a problem of law and of its sense. Neither the case nor the law can determine itself without the constellation of the other (*the problem of law*). Third, if law exists only in its actualizations, a pure non-actual virtuality of law must be presupposed in the form of an ontologically existent, yet undetermined

7. Michael Hardt, *Gilles Deleuze, an Apprenticeship in Philosophy* (Minneapolis: University of Minnesota Press, 1993), p. 23.

8. Daniel W. Smith, "Deleuze and the Liberal Tradition: Normativity, Freedom, and Judgement," in *Economy and Society* 32, no. 2 (2003): 299-324, p. 313. Smith's article is a review of Patton's *Deleuze and the Political*, a work whose significant contribution lies in a preliminary outline of Deleuzian jurisprudence, specifically around questions of aboriginal title in Australia and the creation of a jurisprudential "smooth space" that overlaps and deterritorializes the traditions of common and indigenous legal codes onto one another. See Patton, *Deleuze and the Political*, *op. cit.*, pp. 122-131.

9. See Deleuze's "Afterword" to the English edition of *Bergsonism*, tr. by Hugh Tomlinson and Barbara Habberjam (New York: Zone Books, 1991), p. 115.

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legal archive. The genesis of a judgment takes place not between actuals – present cases and known laws – but between the virtual and its actualization (*the past of the law*). Fourth, law so conceived is not in opposition to, but rather undergirds, jurisprudence (*jurisprudential presupposition of law*). Fifth, law is inherently and technically creative. Law manifests only in a particular reprise of the singularity of the case and the specification of the juridical archive (*the creativity of law*). Through these five points Deleuze formulates a coherent and positive concept of juridical law.

II. Critique of the Dogmatic Image of Law

I term the "dogmatic image of law" a collection of four interrelated characteristics – false repetition, distributive difference, state-centered, and abstract – that together form a figure that prevents the appearance of authentic difference and repetition. It is, therefore, not inconsiderable that *Difference and Repetition* opens with, and is organized by, a critique of law, and that this critique is systematically extended in *A Thousand Plateaus*. In what follows I present four critiques of the dogmatic image of law and its replacement by *extra-legal* terms that put true difference and true repetition to rights.

1. Singular → Particular (critique of false repetition).

A law is a set of constant relations, its most basic operation consists in determining a resemblance of the subjects it rules vis-à-vis terms it designates.[10] The formulation of a law requires the extraction of constants, or what amounts to the same thing, a determination of variables belonging to another law. Fundamental for Deleuze is that law compels singularities to change: they pass from being singularities to particulars. Instead of possessing their own singular differences in combination with other singularities, law transforms the singular into a particular exemplification of a general law in relation to other particulars that also exemplify laws. This conversion to particularity precludes true differential repetition of singularities: "As an empty form of difference, an invariable form of variation, a law compels its subjects to illustrate it only at the cost of their own change."[11]

This concept of law prevents consideration of the singular and its difference. It is dogmatic for two reasons. First, singularities are made to resemble one another as particulars subsumed by an identical law. Second,

10. Gilles Deleuze, *Difference and Repetition*, tr. by Paul Patton (New York: Columbia University Press, 1994), p. 2.

11. *Ibid.*, p. 2.

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laws themselves stand in fixed relation to other laws, rendering change as calculable repetition. The singularity is arraigned by a law which changes it in kind; it discovers that its intimate legal subjectivity is in fact an expression of a law and its powerlessness is simply its objective legal form: "a subject of law experiences its own powerlessness to repeat and discovers that this powerlessness is already contained in the object, reflected in the permanent object wherein it sees itself condemned."[12] The legal form imprisons the singularity in constituting it as a regular legal particular; in so doing, law separates the singular from what it can do. Creative and strictly unforeseeable powers are substituted for the legal form of generality/particularity.

For these reasons, authentic repetition denounces the relationship of the law to its particular in favor of the differential repetition of the singular. *Repetition is extra-legality itself*, everywhere it puts law into question: "[Repetition] is against the law: against the similar form and the equivalent content of law. If repetition can be found, even in nature, it is in the name of a power which affirms itself against the law, which works underneath laws, perhaps superior to laws."[13] Moreover, as Deleuze will later argue in *Difference and Repetition*, genetic positive repetition of singularities gives rise to the legal order, an order which then obfuscates the true genesis of singularities by representing these as legal particularities. My point is not to comprehensively sketch authentic repetition for Deleuze, but simply note that it is conveyed in adamantly anti-legal formulations.

2. Distributive Difference (critique of judgment)

The critique of distributive difference in *Difference and Repetition* is a critique of Aristotelian specific and generic difference. The most perfect type of difference for Aristotle is "specific" difference, found between species sharing a genus. Within the genus, difference is univocal: the many different species are said in one and the same sense as their genus. Genera are able to bear differences while remaining substantially the same, "[they] remain the same in themselves while becoming other in the differences which divide them."[14] This is not the case with generic difference. Here, differences between genera are equivocal; their differences are too large to enter into relations of specific contrariety and cannot be gathered into a covering identity.[15]

12. *Ibid.*, p. 2.
13. *Ibid.*, p. 2, emphasis added.
14. *Ibid.*, p. 31.
15. *Ibid.*, p. 34.

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For Deleuze, this schema of specific/generic is a timid conception that forfeits the true nature of difference. At once, true universality is lost in equivocity and true singularity vanishes in favor of resemblances between specific differences.[16] This concept of difference has significant consequences for *judgment.* Generic difference is equivocal and as such is not collective but distributive. A list of categories (broadest divisions) comes to represent being and establishes a "sedentary distribution, which divides or shares out that which is distributed in order to give 'each' their fixed share."[17] Here, judgment divides and proportions the concept into the terms of which it is affirmed; it distributes Being into categorical differences and proceeds to subsume specific differences under these categories. This activity preserves identity within judgment, it "allows the identity of the concept to subsist."[18] Categorical judgment allocates to each being a space in Being, it divides up a territory into particular domains ordered by divisions of generic and specific differences.

Judgment thus prevents any apparition of internal difference, or differences between things of the same kind (either between existents or within the existent itself). Judgment is a twofold operation based upon commonsense (the equivocal partition of the various categories and their coordination) and good sense (accurate empirical distribution into categories); these two values "constitute the measure [*la juste mesure*] or 'justice' as a value of judgment."[19] Underlying judgment is the presupposition of existing categories that can adequately portion difference; it is precisely this presupposition that assures that judgment "can neither apprehend what is new in an existent being, nor even sense the creation of a mode of existence."[20] If judgment apprehends a discrete "new" being, the schema will be redrawn with finer distinctions, but the form of judgment and distributive difference remains obviously intact. Echoing Artaud, Deleuze therefore recommends "to have done with judgment," to abandon distributive difference in favor of a nomadic nomos.[21] Such a smooth space occurs when differences distribute themselves (and not according to an ordering plan) into an open space that overturns the totality of judgment. Here, beings go to the limit and threshold of their

16. *Ibid.*, p. 38.
17. *Ibid.*, p. 303.
18. *Ibid.*, p. 33.
19. *Ibid.*, p. 33.
20. Gilles Deleuze, *Essays Critical and Clinical*, tr. by Daniel W. Smith and Michael A. Greco (Minneapolis: University of Minnesota, 1997), p. 134.
21. Deleuze, *Difference and Repetition*, *op. cit.*, p. 36.

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power and in so doing transform and differentiate themselves. Laws of good sense and common sense are overturned in the rejection of judgment occasioned by the nomadic *nomos*.

3. Moral Law (critique of state form)

In *Difference and Repetition*, moral law functions analogously to the laws of nature, it converts singularities into particulars. Moral law is enacted in a 'test' of repetition, a test of the types of habits and behaviors that can in principle be repeated without contradiction in contrast to the demonic repetition and boredom of aesthetic existence.[22] With moral law we remain in the sphere of generality, wherein singular actions and desires are converted – tested – into repeatable particularities of a general moral law.[23] Such an operation is a recovery of commonsense (distribution of different actions according to a set moral schema) on the plane of practical reason.

In *A Thousand Plateaus*, the analysis of this moral test is deepened into an anticipation of state law and form. Moral law is a strange subreption wherein submission to law gains self-mastery and possession: "The more you obey as subject, the more you will be master, for you will only be obeying pure reason, in other words, yourself."[24] This is but a step away from a republic of self-legislating subjects, bound together by reason and contract, where ". . .realized reason is identified with the rightful state [*l'Etat de droit*], just as the State is the becoming of reason."[25] A putative State of Nature signifies aesthetic despair, and participation in a self-legislated pact is tantamount to a union of liberty and reason. The state is merely the form of pure and practical reason, a political actualization of the faculties and union of commonsense and good sense.[26]

Not only does moral law sanction and support the general state form of contractual political association (as commonsense), but it also underpins the juridical law of the state (good sense). "Crime," for example, is abused good sense: it is a violence deemed illegal for it consists in taking possession of "something to which one has 'no right.'"[27] Crime is a corruption of the harmony of faculties insofar as one misbehaves (fails the

22. *Ibid.*, p. 4. Delize has the Kierkegaard of Ethics I or II in mind here.
23. *Ibid.*, pp. 4-5.
24. Gilles Deleuze and Félix Guattari, *A Thousand Plateaus, Capitalism and Schizophrenia*, tr. by Brian Massumi (Minneapolis: University of Minnesota Press, 1987), p. 376.
25. *Ibid.*, pp. 375-6, translation modified
26. *Ibid.*, p. 375.
27. *Ibid.*, p. 448.

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test of moral repetition, crime is nongeneralizable) and makes claims outside its province. Conversely, moral law (and its doubly articulated good and common sense) establishes lawful violence, capturing while "constituting a right to capture."[28] Rightful capture sanctions the use of violence according to an implemented harmony of the faculties (of state affairs and peace) that constitutes its domain by terming "criminal" that which does not follow its orderings. Such a legal operation forcefully "particularizes" aberrant singularities.

Moral law serves to stifle becomings: its test converts singularities into particularities; it anticipates the contractual state of universal self-legislation; and it establishes domains of right and criminality. If society (and *a forteriori* political society) is defined by its lines of flight, then moral law is pure impediment.[29] That is why moral law is not a term of political discourse for Deleuze. In fact, it is the deterritorialization of (moral) law that makes political philosophy possible. In "Coldness and Cruelty" Deleuze analyzes how law is overturned by processes of irony and humor. For example, Plato's ironic political principle is that law is itself a secondary power dependent upon a principle of the Good; equally, obedience to the law is "best," and best is the mere humorous image of the Good: "this conception, which is seemingly so conventional, nevertheless conceals elements of irony and humor *which made political philosophy possible*, for it allows the free play of thought at the upper and lower limits of the scale of the law."[30] This examination goes on to Sade (who ironized law as secondary to institutional model of anarchy) and to Masoch (who humorized law with masochistic pleasure and disorder produced by minutely adhering to its interdictions). My point is not to relate in detail this complex analysis but again to note that law is disregarded (or rather, deterritorialized) in favor of extra-legal terms; as such, humor and irony subtend the possibility for social and political thought and true apprehension of movements and desires.

4. Human Rights (Critique of Abstraction)

Documents of human rights are abstract in their expression by providing general provisions protecting life, liberty, speech, property, etc. A constitution, or any catalogue of human rights, bundle together floating

28. *Ibid.*, p. 448.
29. *Ibid.*, p. 171.
30. Gilles Deleuze, "Coldness and Cruelty," in *Masochism* (New York: Zone, 1989), p. 81, my emphasis.

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propositions void of sense. Adapting Deleuze's argument from *The Logic of Sense*, we can say that propositions are void of sense unless they are referred to a concrete situation – a problem – that generates their sense and provision.[31] It is incorrect to say that rights simply require a denotation in a specific situation that will inform the right if it is true or false (i.e., achieved denotation if the right is honored, or infelicitous denotation if the right is violated). Rights need much more: they require concrete situations not simply for denotation but also to take on sense. Abstract values such as liberty or property demand a concrete situation – what kind of liberty is guaranteed, what effects of speech can limit its use, which sorts of property are to be protected? Formal insistence on rights is empty for the reason that without the particular case and concrete situation, rights tell us nothing and are unable to execute justice.

As Alain Badiou has remarked, human rights fail to concern individuals directly (as concrete multiplicity) but rather refer to a general human subject, such that whatever "evil befalls him is universally identifiable."[32] In this respect, Deleuze concurs with Badiou, claiming that rights are axiomatic and general, they coexist in a space of multiple axioms such as the protection of property, right to war, etc. These axioms exist together in a competitive milieu; one may override the other, and abstractly postulate "human rights say nothing about the immanent modes of existence of people provided with rights."[33] Until they enter into concrete assemblages and determination, rights remain a mere technical element in broader social machines of diverse axioms with varying value: "The principle behind all technology is to demonstrate that a technical element remains abstract, entirely undetermined, as long as one does not relate it to an assemblage [*agencement*] it presupposes."[34] Rights in no sense guarantee that life will be protected; they are part and parcel with other axioms of liberal capitalism, and, as such, some rights (property, for example) may be upheld against other rights (life, for example).

For these reasons Deleuze recommends jurisprudence to address specific user groups that negotiate how to live with a problem. Instead of a

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31. Gilles Deleuze, *The Logic of Sense*, tr. by Mark Lesser (New York: Columbia University Press, 1990), pp. 12-22 and 121-23.

32. Alain Badiou, *Ethics: An Essay on the Understanding of Evil*, tr. by Peter Hallward (London: Verso, 2001), p. 9, and Alain Badiou, *D'un désastre obscur: droit, état, politique* (Paris: Editions de L'Aube, 1991).

33. Gilles Deleuze and Félix Guattari, *What Is Philosophy?* tr. by Hugh Tomlinson and Graham Burchell (New York: Columbia University Press, 1994), p. 107.

34. Deleuze and Guattari, *A Thousand Plateaus*, *op. cit.*, pp. 397-398.

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general and transcendent rights-bearing subject, we have life and the problems of life that proceed only case-by-case, something for jurisprudence to unravel and honor.[35] Jurisprudence addresses the situation to make it livable, it resists coding it with transcendent evaluations of abuse. Justice and Rights do not exist. Only jurisprudence exists and it alone is capable of creating law [*droit*].[36]

We now see Deleuze's four significant critiques of law: law converts singularities into particularities that fatally compromise repetition; distributive judgment imposes an ordering schema of generic and specific differences; moral law models itself on common and good sense, anticipating the advent of the state; and human rights are abstract, unable to clarify or render justice to concrete situations. Equally, Deleuze creates concepts declaredly alien to law and legal order – extra-legal repetition; *a nomadic nomos* to rid thought of judgment; humor and irony to collapse law; and jurisprudence and user groups to replace rights – thus positioning his philosophy as a massive enterprise against law.

III. Two Encounters

Notwithstanding this dogmatic image of law, a new image of law, a non-dogmatic one, can be discerned within Deleuze's corpus. It is his particular reading of Bergson, especially his attention to the relation between the virtual and actual that makes this possible. The implications are profound, for it addresses the conditions of real experience. For example, whereas the dogmatic image of law assumes that human rights are the *condition* able to identify and attend *all possible breaches of right*, a new image of law, by contrast, takes a Bergsonian inspiration and inquires not into the conditions of all possible legal experience, but addresses "the conditions of *real* experience."[37] A new image of law must reach the individual manifestation of law, the genesis of law, its sense and its application. If for Deleuze the first principle of philosophy is that universals "explain nothing and must themselves be explained," a new image of law must share this departure and must, with precision, analyze how law functions, what its conditions of emergence are, and how it may fashion a concept that guards against the legal obfuscations Deleuze relentlessly criticized.[38]

35. Deleuze, *L'Abécédaire*, *op. cit.*, G.
36. *Ibid.*, G.
37. Gilles Deleuze, "Bergson's Conception of Difference," in *Desert Islands, and Other Texts, 1953-1974*, ed. by David Lapoujade, pp. 32-51 (Los Angeles: Semiotext(e), 2004), p. 36.
38. Deleuze and Guattari, *What is Philosophy?*, *op. cit.*, p. 9.

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I suggest that the first condition for a new image of law is to base its emergence upon the notion of an *encounter*. If jurisprudence is to proceed case by case and heed singular demands, it must necessarily find its support and inspiration in the specificity of *a* problem or *an* encounter before it. What is said of thought in *Difference and Repetition* holds *mutatis mutandis* for law and jurisprudence: "There is only involuntary thought, aroused but constrained within thought, and all the more absolutely necessary for being born, illegitimately, of fortuitousness in the world. . . . Do not count upon thought to ensure the relative necessity of what it thinks. Rather, count upon the contingency of an encounter with that which forces thought to raise up and educate the absolute necessity of an act of thought or a passion to think."[39]

The profound mistake of the dogmatic image of law – of human rights advocates, of plain statutory applications, for example – is that it reduces law to a set of propositional theses that "treat" the case, designate wrong, and perform expeditious applications of original law to correct the situation.[40] Lost is the sense of the case (problem or encounter) as a properly genetic element *of the law*. The creation of law from the most intimate encounter with a case is not reducible to these propositional theses. A Deleuzian image of law would begin by claiming that law in-itself (the pure texts of statutes, of constitutions, and previous judgments) exists in a torpor and is aroused only by an encounter – a case – whose contingency raises the law to its necessary exercise and effective power.

We might divide encounters into two kinds. The first is termed an "easy case." Such ease poisons the dogmatic image of law. In this encounter, the law (statute, right, or previous decision) is considered sufficiently clear or sufficiently thick and regular to make moot the genetic problem: i.e., the letter of the law is applied and judgment rendered. Following Bergson, we call the designation of an "easy case" an instantiation of

39. Deleuze, *Difference and Repetition*, *op cit.*, p. 139.

40. For two adherents of this position, see Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* (Princeton: Princeton University Press, 1997) ("What I look for in the Constitution is precisely what I look for in a statute: the original meaning of the text" (38)), and Michael McConnel, "Textualism and Democratic Legitimacy: Textualism and the Dead Hand of the Past," in *George Washington Law Review* 66 (1998): 1127. Textualism holds that the legal text is the primary source of legal interpretation – over history, doctrine, political values, etc. Originalism holds that a particular moment in history (the originary moment of the law in question) ought to be dispositive in interpretative questions. In "textualism" (Scalia) and "originalism" (McConnel) the law is ready-made, preformed, and preexistent to itself. Its sole action is to pass into reality by adequately treating the case before it. I thank Tom Donahue for his help here.

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legal *habit memory.* In such memory, a "ready-made response [a habit] renders the question [or the problem] unnecessary [*inutile*]."[41] Here, the case is condemned to have applied to it a ready-made solution in the form of a set precedent or a perspicacious reading of a statute. Law steamrolls the case, the latter serves as mere instantiation or application. The law overcodes, "it supplants the real intuition [i.e., the case] of which the office is then merely... to call up the recollection [*le souvenir*], to give it a body, to render it active and thereby actual."[42] In this view, law still requires an encounter but simply to motivate its manifestation, to reassert its rule in the particular case. In the case, law gains a specific unit (a particularity) for its general potential; the law compromises its universality to render a verdict in a particular case but in so doing, instantiates its force and rule. The easy case bears only the shadow of its genetic nature, reduced to a transcendental opportunity for the law to gain its relevance and existence.[43] This merely "habitual" application forfeits the problematic genesis of law from a case in order to instate law over a case; law becomes its own bare or brute repetition. Such a case is truly non-problematic: its ease (habitual resolvability) expresses the emergence, application, and instatement of the dogmatic image of law.

The second type of encounter is the "problematic case," which raises the encounter to its appropriately transcendental function. The easy case additively sharpens and instantiates ready-made, preexistent laws and legal decisions. Such an understanding of the law, cases, and problems misses everything essential to legal judgment and to law itself. To understand how law functions, we must grasp the nature of the problem as it appears in a case/encounter. When Bergson or Deleuze claims that we must not be a slave to problems, this has nothing to do with a careful selection of empirical problems to occupy our attention (like a court of judicial review that chooses the cases it hears); rather, we must understand the genetic nature of the problem and avoid lapsing into a dogmatic image with its false separation of sense and statement, problem and solution, law and case.[44]

41. Henri Bergson, *Matter and Memory*, tr. by N.M. Paul and W.S. Palmer (New York: Zone Books, 1988), p 45.

42. *Ibid.*, p 66.

43. On the logic of legal reference vis-à-vis specificity and generality, see Paul de Man, *Allegories of Reading, Figural Language in Rousseau, Nietzsche, Rilke, and Proust* (New Haven: Yale University Press, 1979), pp. 267-273; and Georgio Agamben, *Homo Sacer: soverign Power and Bare Life*, tr. by Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), p. 21

44. Henri Bergson, *The Creative Mind, An Introduction to Metaphysics*, tr. by Mabelle L. Andison (New York: Citadel Press, 1974), p. 50; Deleuze, *Difference and Repetition*, *op cit.*, p. 158.

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Before we proceed, we may identify a certain number of principles that emerge once the problematic status of the case and of the law is respected and analyzed. 1. The case does not encounter a preformed law or discerned precedent that suffices to treat it. 2. The encounter between law and case serves to connect the singular points of the case to the singular points of the law. 3. The connection of the points of the case and of law is what we call jurisprudence, the practice of legal judgment. 4. Judgment is not limited to the announcement of a verdict: it is the construction of a legal plane, one in which the case — its facts, its salient aspects — is determined in relationship to laws, and conversely, where laws are adjudicated, related, and transformed through the distinct points of the case. 5. Legal judgments (and therefore law) are connected to problems without which they would have no meaning. 6. Neglecting or repressing the status of the "problem" leads to illusions of law typical of the first encounter. Moreover, if law is depicted as general and preceding its problems, it is appropriately criticized according to Deleuze's outlined four critiques. 7. By respecting the nature of this process, jurisprudence will be creative. Creativity is not an epithet applied to irregular judgment but is necessary to its everyday operation.

IV. Law and Judgment, sub specie durationis

Together these principles constitute the beginnings of a new image of law. With these in mind, I will construct a legal scene with the purpose of outlining the processes of jurisprudence and the fabrication of a new image of law from key Deleuzian concepts. What follow is, of course, grounded in Deleuze, but it is also centrally indebted to Bergson, especially to the insights and organization of *Matter and Memory.* In *What is Philosophy?* Deleuze and Guattari honor Bergson as the first author since Spinoza to have rigorously, and without compromise to transcendence, constructed a plane of immanence adequate to reality and to thought.[45] Specifically, they point to the first chapter of *Matter and Memory* and its depiction of images and movement.

In this chapter, Bergson establishes a theory of perception and of movement. He imagines a world of pure matter, without perception, a world of *present* images and not *represented* images.[46] For Bergson, perception is subtractive: we apprehend pragmatically and perceive only the aspects of the object that interest us.[47] Unrepresented, therefore, an image

45. Deleuze and Guattari, *What is Philosophy?*, *op cit.*, p. 49.
46. Bergson, *Matter and Memory*, *op cit.*, p. 36.
47. *Ibid.*, p. 21.

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presents *all its sides at once.* This image is without the narrowing function of perception: it is absolutely present in all of its qualities, aspects, and movements, both to itself and to other images. Each "point" of an image is available and acts upon each "point" of the universe. These fully present images "present each to the others all their sides at once [*toutes leurs face à la fois*]: which means that they act and react mutually by all their elements [*parties élémentaires*], and that none of them perceives or is perceived consciously."[48] Bergson's actively spatial language – sides, points, parts – depicts the pure image of matter. As time/duration is not yet included at this stage of the theory, we can claim that the image is fully and totally actual, it reserves none of itself either in subtractive perception, nor does it gain in virtual duration. This is a field in which everything is given (but not to a subject) in infinite reciprocity.

The legal case can be understood as an image in this strict sense, and preliminarily can be defined as a pure actual image insofar as it underlies and exceeds its representations. This helps us to see that the most basic operation of any judge or lawyer is to select points and qualities of a legal case and coordinate these into an argument or a judgment. Insofar as we exclude temporality and memory from the case (and at this point we do), the perception of a case and the process of presenting an argument is limiting and subtractive. *Only certain crucial points* are advanced and construed into legal argument, but underlying these points is the *case-in-itself*, unperceived, or giving to perception the part that interests the perceiving parties. The case-in-itself (the pure actual case) has an infinity of points and sides that go neglected, facts irrelevant to the interest at hand that exceed its particular legal construction. This case, then, will have infinite sides and points. Its actual present sides are infinite, there for possible selection, and yet the infinity of sides is sustained only insofar as these are unperceived. While a natural object is more readily conceivable as a pure actual image than a legal case (for the latter's very definition *as* legal case reins it into perception and limitation), we hold that as an image the legal case exists more fully, with absolutely more sides, than a represented case. At this point of the investigation, the legal case as actual image is a discrete numerical multiplicity with infinite actual sides that bear no virtuality or perception. *The unperceived case is a fully present actuality.*

Having outlined the pure actuality of spatially present matter, I now sketch the pure virtuality of temporal memory. We shall see that the

48. *Ibid.*, pp. 36-37.

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combination of these two – matter and memory – will provide the ground for a new image of law. For Bergson, the concept of the *pure past* emerges from three paradoxes of time. Deleuze analyzes these paradoxes with precise economy in *Difference and Repetition*. First of all, the past cannot be reconstituted by passing presents, by past presents. For the present to pass – for there to be a continuity of time rather than a series of juxtaposed and infinitely decomposable present instances – the present must be "past 'at the same time' as it is present."[49] This is the first paradox of time: the past as contemporaneous with the present that it was. This leads to a corollary paradox: coexistence. It is not a discrete past that coexists with the present; rather, *all of the past* is contemporaneous with the present (a present which is now also past given the first paradox). Finally, the third paradox is that of preexistence. Given that the past is "contemporaneous with the 'present it was,'" we treat a past which was never present, it was not formed 'after,' it is already there.[50] These three paradoxes lead to profound conclusions on the nature of time: There is therefore a "past in general" that is not the particular past of a particular present but that is like an ontological element, a past that is eternal and for all time, the condition of the "passage" of every particular present. It is the past in general that makes possible all past in general. . . . *It is a case of an immemorial or ontological memory.*[51]

What Deleuze calls the "actualized present [*présent actuel*]" is a duration, localized and actual, that does not cease to pass and become.[52] The present cannot be said to "be," it "is not" in an ontological sense: its nature is to become and to pass. The pure past, by contrast, is impassive and inactive, it IS and is identical with Being itself.[53] Again and again, Deleuze stresses that the pure past is not psychological but is the ontological ground of an actualized present.[54] The pure past therefore, insofar as it is not drawn upon by the present and actualized, is the element in which the present establishes itself *qua present* but is itself non-actual. Ontologically existent, the pure past differs in kind from the actualized image of matter.

How can the contemporaneity of the entire past with our actual

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49. Deleuze, *Difference and Repetition*, *op cit.*, p. 81.
50. *Ibid.*, p. 82.
51. Deleuze, *Bergsonism*, *op. cit.*, pp. 56-7, my emphasis.
52. Deleuze, *Difference and Repetition*, *op. cit.*, p. 80, translation modified.
53. Bergson, *Matter and Memory*, *op cit.*; p. 150; Deleuze, *Bergsonism*, *op. cit.*, p. 54.
54. Keith Ansell-Pearson, *Philosophy and the Adventure of the Virtual: Bergson and the Time of Life* (London: Routledge, 2002), p. 15.

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present contribute to the new image of law? Consider Kant's "What is Enlightenment?". Here, Kant argues that we all lead double lives. On the one hand, we conduct "public" lives wherein we speak our minds with the fullest possible exercise of reason; on the other hand, we fill "private" (what we would call "professional") lives in that we serve institutional roles, adopting its personae.[55] Turning back to Bergson, let us take the example of a judge. As a human ("public") being, a judge obviously moves in Being-Memory, a virtual existence of the past that permits actualizations of lived presents. But in his capacity as a Judge, he occupies an *institutional Being-memory*, the being-past of the law. Although Bergson did not develop this specific insight, it is possible to claim that not only do living beings presuppose pure memory for their present action, but institutions presuppose it for their operation.

Judicial law, as an institution, is ideally suited to develop this homology. *The judge, as judge*, exists *within* an enormous history, an institutional past, which we call *archive memory*. This archive is virtual, and as such it is the general past in which the totality of past decisions (precedents) and statutory law available for judgment is to be found. It is no distortion to say that the "pure past," institutionally considered, offers a way to theorize the pure archive that enables actual presents to come into relief. In brief, the judge is in the legal archive as the medium of the past in general and presupposes its virtual coexistence, an ontological existence that enables the institutional action of judgment.

Let us make this very concrete. In order to judge, a judge must draw upon an institutional archive: the prudential aspect of judgment demands that a judgment exercise not mere individual fancy but rather must be institutionally based. In order for a legitimate judgment to present itself (either as a *recalled* judgment, or a *created* judgment) it must find root in legal memory. The very manifestation of a present judgment demands a coexisting/preexisting memory-archive; it demands that the *entire and absolute* legal archive virtually coexist as a medium in which discrete past decisions are present and in which the present judgment may actualize itself. This archive is not a mere collection of individual decisions and discrete laws; it is the *general element of the past* these recollections [*souvenirs*] presuppose. It is the medium in which they are preserved for our use in present judgment; it is this pre-existence of the past in general (what we call the *archive* of law) that recollections and therefore present

55. Immanuel Kant, ."What Is Enlightenment?" in *Practical Philosophy*, ed. and tr. by Mary Gregor (Cambridge: Cambridge University Press, 1996).

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judgments presuppose.[56] With this, Bergson's theory of the pure past and of pure memory takes on an institutional life: the judicial archive is fully, yet virtually, present to a judge who must judge an actually present legal case. The archive is the institutional Being-of-the-Past.

We can now run two threads of the new image of law in parallel. First, we have the purely positive actual image of the case that underlies the perceived case. Such a case bears an infinite number of sides and points that we sample in limited fashion to give the legal case as it is *represented*. Second, we have the virtual archive, the general element of the past and the totality of the institutional memory of law. The archive is the element in which pure non-actuals exist in relation and continuity. At this stage of the inquiry, we have two full positivities, one actual and one virtual. We now see the organizing problematic of the new image of law: how do the actual image of the case and the virtual archive of the law engage one another? The solution is jurisprudence.

In pure perception, the represented image is a reflection of the interesting, of the possible actions exerted by the body upon the image. Pure perception without memory adds nothing creative to the image.[57] But, Bergson adds, *pure perception is a heuristic fiction:* memory is always added to the image, memory always accompanies perception.[58] Undoubtedly, the pragmatic aspect of perception is maintained — we perceive that which is of present use, according to our particular disposition to action[59] — but this pragmatic theory of perception is enhanced by memory: "subjectivity, then, takes on a new sense, which is no longer motor or material, but temporal and spiritual: that which 'is added' to matter . . . recollection images, not movement images."[60]

In the construction of a legal case and of legal judgment the case is indeed diminished in terms of its relevant factors, or rather, the interesting "sides" it presents. But equally, the case is "enhanced" or created by a selection undertaken through the legal archive. The selection and construction of

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56. Gilles Deleuze, *Cinema 2: The Time-Image*, tr. by Hugh Tomlinson and Robert Galeta (Minneapolis: University of Minnesota, 1989), p. 98. See also *Difference and Repetition*, *op cit.*, p. 80: "the past in general is the element in which each former present is focused upon in particular and as a particular."

57. Bergson, *Matter and Memory*, *op. cit.*, p 37.

58. *Ibid,* p 232.

59. Bergson argues that "present consciousness admits *legally* only those recollections that provide assistance to action." Bergson, *Matter and Memory*, *op. cit.*, p. 177, my emphasis.

60. Deleuze, *Cinema 2*, *op. cit.*, p. 47.

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a case creates the latter's distinctive points by leaping into the legal archive and selecting relevant recollections required to construct a legal claim. This process is the constitution of a problematic field. Only with this process does a "case" emerge *qua* legal case, as a problem: "The problem of thought is tied not to essence but to the evaluation of what is important and what is not, to the distribution of singular and regular, distinctive distinctive [*remarquables*] and ordinary points, which takes places entirely within. . . the description of a multiplicity, in relation to the ideal events which constitute the conditions of a 'problem.'"[61]

The remarkable and distinct points of the case neither preexist the law nor can their definition be discerned without it; the essence of a legal case is the fabrication of a multiplicity from significant resonances between case and archive. It is this genetic relationship between the case and the archive that can be called equally "legal argument" or "jurisprudence" proper.

We must closely examine how these resonances are created, resonances which are the essence of a legal problem. In distinction to Spinoza's formulation of intuitive knowledge as *sub species aeternitatis*, Bergson insists we must "become accustomed [*habitons-nous*] to see all things *sub specie durationis*," under the aspect of duration.[62] What does this injunction require? A leap, *sui generis*: "By which we detach ourselves from the present in order to replace ourselves in the past in general, and then in a certain region of the past – a work of adjustment [*de tâtonnement*], analogous to the focusing of a camera. But our recollection still remains virtual; we simply prepare ourselves to receive it by adopting the appropriate attitude [*nous nous disposons simplement ainsi à le recevoir en adoptant l'attitude appropriée*]. Little by little it comes into view like a condensing cloud; from the virtual it passes into an actual state. . . ."[63]

Insofar as it operates within a tradition of common law, jurisprudence institutionalizes this attitude: particular recollections (e.g. a precedent) are sought only by virtue of this leap and disposition. For Bergson, the function of memory is to select recollections in order to treat present images; for jurisprudence, the function of the legal archive is to select precedents and guidelines from the past administration of law in order to treat the present case it hears.

Jurisprudential memory proceeds by trial and error. The leap into the pure past is not the discernment of *actual* recollections but the

61. Deleuze, *Difference and Repetition*, *op. cit.*, p 189.
62. Bergson, *The Creative Mind*, *op. cit.*, pp 128-9.
63. Bergson, *Matter and Memory*, *op. cit.*, p. 134, my emphasis, trans. modified.

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commencement of a search. For Bergson, this search seeks an appropriate tension. Such is the meaning of the famous cone of time: the past coexists whole and absolute with our present in various simultaneously repeated degrees of contraction and expansion. I suggest that the legal archive (the legal past in general) infinitely repeats itself in varying degrees of contraction and expansion; the various planes of the pure past are "so many repetition of the whole" of the legal archive.[64] The more recollections are removed from the present point of action the more they preserve their singularity and distinctness; contrarily, the closer we locate a plane to the active present, the more the recollections resemble one another and the more they are immediately serviceable to present need. The judicial leap into the legal archive jumps into the plane of tension most adequate to the demands for judgment of the actual case. "Depending on the *case*, "Deleuze writes" I do not leap into the same region of the past; I do not place myself on the same level; I do not appeal to the same essential characteristics."[65] If the selected plane partakes of a contracted nature, the recollections within that plane will have a general nature and will easily, even habitually, connect with the current case. The more expanded the plane, the more the precedents will have their distinct quality, and will be related to problems specific to themselves; these recollections will be more subtly individuated, yet less immediately applicable to the case at hand.

What is difficult in understanding selection is that the pure past exists in each level in undivided continuity (though in different tensions) and as such strictly forbids discrete points or specific recollections. How then does the plane divide and yield the recollections with which to treat the present? The judicial selection of recollections (or precedents) is accomplished through translation and rotation: "Memory, laden with the whole of the past, responds to the appeal of the present state by two simultaneous movements, one of translation, by which it moves in its entirety to meet experience, thus contracting more or less, though without dividing, with a view to action; and the other of rotation upon itself, by which it turns toward the situation of the moment, presenting to it its most useful side [*la face la plus utile*]."[66]

The specific recollections that fracture a plane of memory are the function of "rotation," where a plane presents its most useful *side*, a side divided and spatialized. These rotations are called up by the needs of the

64. *Ibid.*, p. 168.
65. Deleuze, *Bergsonism*, p. 62, *op. cit.*, my emphasis.
66. Bergson, *Matter and Memory*, *op. cit.*, p 168, my emphasis, trans. modified.

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present for a *specific* recollection, *and yet* the leap is said to select an *undivided* plane of useful tension. The leap chooses a level of undivided tension and not a specific, partitioned recollection. Thus the search initiated by the present need organizes virtual memory into the specific undivided tension the former requires. This is the work of "translation," the degree of virtual tension that contracts or expands a plane of undivided recollections into useful tension. Translation (undivided tension) and rotation (divided actualizations) are strictly simultaneous and necessary to one another. The present presupposes at once an undivided plane (which provides a recollection with appropriate tension) *and* a fractured plane (in which present need looks for and finds the discrete recollections embodying the tension of the whole). Bergson's complex simultaneity is such that we pick useful memories (rotation) that *divide* the virtual tension, yet it is this *undivided* tension (translation) that offers a suitably contracted discrete recollection.

We can see how the judicial leap expresses the simultaneity of translation and rotation. On the one hand, a judge might decide a case according to general principles, upheld through any number of cases without differentiating their specificity (for example, automatic *stare decisis* and the application of a principle or axiom from a leading case, e.g., "first in time, first in right" for contracts). Here, the virtual whole of the legal archive would be tensely contracted (translation) such that a general principle might be actualized from it (rotation). On the other hand, a judge might move deeper in the cone of time, selecting a plane of time that provides greater specificity to select precedents and to connect these to the case at hand. In either example, the specific recollections available for selection vary according to the degree at which the legal archive is contracted: every translation and rotation of the virtual archive is a local integration of the archive in accord with the case judged. It is this process that actualizes a jurisprudential *topos*. As Bergson puts it, with the variation of tension each plane organizes itself around renewed "dominant memories" and "outstanding points" unique to a particular tension, points able to emerge only from that tension.[67] Contraction expresses the movement by which a recollection is actualized, "at the same time as the level that belongs to it."[68] *Jurisprudence* is the process that determines the specific tension of the entire legal archive requisite to adequately judge a present

67. Bergson, *Matter and Memory*, *op. cit.*, p. 171; see also Deleuze, *Bergsonism*, *op. cit.*, p. 100.

68. Deleuze, *Bergsonism*, *op. cit.*, p. 64.

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case by connecting the case to the actualized tension of a precedent. This is what it means for jurisprudence to operate in its own time and archive.

V. The Creativity of Law

Using Deleuze and Bergson we have proposed a philosophy of jurisprudence based upon the repetition of the planes of the legal archive at varying degrees of tension, an operation that generates the suitable recollection-images by which a legal case (a problem of law) is constructed. However, this process does not yet include the most significant feature of jurisprudence – creativity – with which I conclude the essay.

We may begin by asking what happens when recognition fails, when recollection-images are insufficient or poorly equipped to treat an encounter? Such failure occurs when habit-memory, our cloak of usual recollections, proves inadequate and we must prolong a search of memory, testing various levels and tensions to discern an adequate image. As Deleuze observes, neither attentive recognition nor habits provide us with a true concept of memory; rather their disturbance or interruption reveals a genuinely creative capacity.[69] Using Kantian language, we could say that when the determinative judgment of memory fails and recollection forfeits its subsuming faculty we are left with no choice but to leap into the archive: "*If the retained or remembered* [*rémemorée*] image will not cover all the details of the perceived image, an appeal is made to the deeper and more distant regions of memory, until other details that are already known come to project themselves upon those details that remain unperceived [*sur ceux qu'on ignore*]. . . our memory chooses, one after the other, various analogous images which it launches in the direction of the new perception. . ."[70]

Earlier, we distinguished between two sorts of encounters in a legal case: a so-called "easy" case treated by habit memory, and a problematic case treated as a genetic legal problem. An easy case is cleanly accounted for by the selection of a recollection image close to the base of the cone of time, a dispositive judicial habit that renders any probe into the pure archive, or experimentations with tension, unnecessary. By contrast, *a problematic case* is not an expression of especially complex litigation; rather, it *is a judicial disposition that abides the singularity of the case* vis-à-vis the law with which it must connect. The problem of the problematic case is to discover in a legal perception what is not yet legally perceived: it is a question of connecting the case in question to previously unperceived points of

69. Deleuze, *Cinema 2*, *op. cit.*, p. 54.
70. Bergson, *Matter and Memory*, *op. cit.*, pp. 101-2, translation modified.

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the archive in order to illuminate previously unperceived points of the case. Memory and the actual sides of the case shuttle to-and-fro, constituting in their reciprocal amplification the fabric of the problematic case. Failed recognition initiates the genesis of a legal problem, a case untreatable by canons and habitual construction. A disposition favorable to the legal problem leads us to reinvestigate the archive, to discover recollections that when combined with the case generate a true image of law (case + archival law). Respect for the singularity of the case is not a transcendent call to justice and to the infinite otherness; singularity is interruption of habit-memory, and a foray into the immanence of Being-memory of the law.

A case, we have seen, presents an infinity of actual sides that, when placed in the virtual archive, connect with recollection images to generate a properly *legal* case.[71] A case does not merely actualize one plane of the legal archive, but constructs itself by combining a variety of legal recollections, taken from different planes with varying tensions. This process is not unlike the construction of a concept in Deleuze and Guattari's "What is Philosophy?" There, the concept surveys [*survol*] its components at an infinite speed, and it is this which creates the consistency of the concept.[72] Equally, a legal case is a singular survey of myriad recollection images drawn from the legal archive in coherent jurisprudential construction. A case determined through jurisprudence contracts a number of external moments (external to one another in the archive) into a single internal moment, the case itself. We now see how jurisprudence is creative of the case.

To conclude I argue a stronger point: in addition to creating the case, jurisprudence creates law and presupposes a new image of law that accommodates and structurally requires creativity. In this sense, I want to employ Deleuze like Phillipe Soulez uses Bergson: to insist that creativity is itself a political principle.[73] Let us again consider the attentive perception-image: "An act of attention implies such a solidarity between the mind [*l'esprit*] and its object, it is a circuit so well closed that we cannot pass to states of higher concentration without creating, whole and entire [*de toutes pieces*], so many new circuits which envelop the first and have

71. In this sense, we might say that the legal case is homologous to the crystal-image of *Cinema 2* in that each case *qua* case bears within it the smallest internal circuit between its actuality and a legal archive as virtual past. Deleuze, *Cinema 2*, *op cit.*, pp. 78-83.

72. Deleuze and Guattari, *What is Philosophy?*, *op cit.*, pp. 15-34.

73. Phillipe Soulez, *Bergson Politique* (Paris: Presses Universitaires de Paris, 1989), p. 280.

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nothing in common between them but the perceived object."[74]

We have just witnessed this process: attentive perception is not the combination of distinct objects on the same plane of memory; rather, it is the same object traveling through and cohering together different planes. The journey of memory is rhizomatic, provoking the re-wirings of planes by virtue of the object attentively treated. Successive planes join and cancel their independence in this real and psychic reality.[75] As Deleuze affirms, "reciprocity of determination does not signify a regression . . . but a veritable progression in which the reciprocal terms must be secured step by step, and the relations themselves established between them."[76] In this sense, recollection and the attentive operations of archival translation and rotation simultaneously give difference and introduce difference into the present: each recollection constitutes something new.

The creativity of the new image of law can be strictly defined in three respects. First, the case issues novelty in that it combines and coheres various planes of law: the case actualizes a positive constellation of translated legal planes bearing both the whole of the archive and multiple rotated precedents selected from diverse levels of tension.

Second, a jurisprudence of the pure archive is incapable of brute repetition. Bergson once remarked that biology as a science suffers because it is not adequate to the thought of no repetition at all.[77] Such an observation applies equally to law: because precedents are chosen according to the distinct points of the case, and because the points of the case decisively adjudicate the tension at which the precedent is sought, there is strictly no question of a precedent "subsuming" or "covering" the case. A dogmatic image of law based on distributive difference and a judgment that portions the case under existing criteria is both anathema and incompatible with the creative jurisprudence we have been describing.

Third, it is often repeated by Bergson and Deleuze that while the virtuality of the past possesses a reality, it requires a state of affairs to give it body and existence. It is true that the case provides such an actuality. Remarkable about the case is that it becomes a legal problem only in connection with an archive; equally, pure law (the archive) gains a reality only when it is actualized in a case. Law receives a sense in the case: it alters its

74. Bergson, *Matter and Memory*, *op. cit.*, p. 104.
75. Deleuze, *Cinema 2*, *op. cit.*, p. 46.
76. Deleuze, *Difference and Repetition*, *op. cit.*, p. 210.
77. Henri Bergson, *Mélanges* (Paris: Presses Universitaires de France, 1972), p. 1149.

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signification according to the points with which it is connected. Any significant legal case and legal judgment adopts the archive to the present sides of a case, and in so doing creates a *new legal problem and a creative judgment.*[78] The case as we have seen always bears a halo of virtuality, which enables its construction as a case; at the same time and by virtue of the same process the laws of the archive achieve sense only in their differentiation by a legal case and in their adaptation to a new legal problem.

The legal archive therefore gains a life through its decisions, it achieves reality in the selection and adaptations of jurisprudence. By consequence, jurisprudence requires law that is differentially repeated in the pure levels of the archive and that gives recollections appropriate tension and application. Additionally, jurisprudence requires a law that undergoes differential actualization, the process by which law actualizes itself only in transformation, by adopting the needs and problematicity of the case at hand. Inspired by Deleuzian concepts, jurisprudence gives us an adequate and new image of law appropriate to its operation. The philosophy of Gilles Deleuze provides us not only with a thorough fourfold critique of the dogmatic image of law, it also provides concepts by which we can envisage a new image of law that adheres to the singularity of the case, one that proceeds by the injunction of problems, that upholds virtual reality, and that centrally requires creativity for its operation. For it to function (and this is not only an ethical claim but also an ontological one), law requires the characteristics of differential repetition and differential actualization; in other words, the institution of jurisprudence demands the creative exercise of law in order for it to produce legal arguments, legal problems, and legal judgments.

78. To take an arbitrary, if controversial, example: in *Roe v. Wade* (1973) the constitutional right of privacy from previous decisions such as *Griswold v. Connecticut* (1965) was applied to the issue of abortion. We can see that a recollection of the legal archive was adapted to a new legal problem, thereby transforming the former. With the argument of *Roe*, privacy laws were creatively adapted to include substantive women's rights. *Griswold* was not simply recalled but formed on an suitable level of tension within the legal archive in order to be selected and differentially actualized into a new case and problem.

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TWA: The Friend from America[1]

Detlev Claussen

In the fall of 1964, during the international film week in Mannheim, film enthusiasts from Frankfurt succeeded in meeting Fritz Lang for an intensive discussion about his film *Der Müde Tod* (released in the U.S. as *Between Two Worlds),* which had appeared in 1923, and which had been screened again around 1960 at the center of cineastic culture in Frankfurt, the film studio of the Johann-Wolfgang-Goethe University. To this meeting with young people, Lang brought–as he put it — his "friend from America," Theodor W. Adorno. Hartmut and Herbert Birett reconstructed this meeting from their memories almost twenty years later.[2] The focal point of the talk was empirical and theoretical film research with reference to some scenes from Lang's film. Adorno contributed theoretical reflections, whereas Lang referred directly to the film. Rolf Aurich describes the story of this friendship, one that the German public hardly expected, between Lang, a film director of two continents, and the singular intellectual figure of West Germany, returned from exile in the USA, revealing unexpected aspects of both Adorno and Lang.[3]

The friendship is documented in an exchange of letters, which begins with Adorno's return to Germany from exile in 1949. The almost thirty remaining letters from the years between 1949 and 1967 have been kept very private. While the texts are not too rich in content for film-historians, they provide all the more evidence of an intimate character, which was

1. Translated from the German by Kathryn J. McQueen.
2. Hartmut and Herbert Birett: "Fritz Lang im Gespräch zum Film Der müde Tod" in: *Filmblatt* (vol. 6, nr. 16, Summer 2001)
3. Rolf Aurich, Wolfgang Jacobsen, Cornelius Schnauber (ed): *Fritz Lang. Leben und Werk: Bilder und Dokumente* (Berlin: Jovis 2001)

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very unusual for Adorno; the letters represent a priceless document of a friendship.[4] Adorno and Lang knew each other really well, not however from the time of the Weimar Republic, during which Lang was already a prominent figure. Adorno, who was twelve years younger, and a passionate visitor of the cinema, certainly knew who Lang was at that point. Yet they only met each other for the first time in Californian exile, in Los Angeles.

This close friendship goes back to the early 1940's, mediated through the Los Angeles scene, dominated by artists, technicians, and businessmen from the film industry but in which authors, musicians, scientists and other intellectuals from Germany were also quite active. Los Angeles provided emigrants from Nazi Germany very specific conditions. The German "film people" (as Thomas Mann called them), who were already established in Hollywood, and of whom a few were considered talents by the studios as early as the the 1920's, used their leverage after 1933 to secure residence permits and income statements for many intellectual emigrants from Europe. They convinced the studio bosses to hire well-known authors as scriptwriters; this often led to bitter disappointments and humiliation. The bosses behaved philanthropically within the film industry, but although the authors were to some degree compensated, they felt nevertheless superfluous, a formative experience in Hollywood for the immigrated guild of German writers.

As the world began once again to open up in the second half of the 1940's, Lang was already well established, while Adorno faced an uncertain future. The financial resources that the Institute for Social Research had been able to save from the Nazis in Germany were running low. One lived from research projects and was therefore dependant on applying for grants from American research foundations — a laborious business. The ground-breaking study, *The Authoritarian Personality*, which has gone down in the history of American sociology along with the name of Adorno, took shape in this period under difficult funding, outside of the academic mainstream in the Bay Area. Los Angeles at that time was still by no means a center for American intellectuals and scholars, but only for immigrants from Nazi Germany — and among them Adorno did not belong to the VIPs.

Thomas Mann had just integrated the W. of "Theodor W," the last name of the father "Wiesengrund," into his novel of Germany, *Doctor Faustus*. In 1942, Adorno had changed his hyphenated name, Wiesengrund-Adorno, to

4. The letters are in the Frankfurt Adorno Archive.

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simply Adorno. Later this move was misjudged as a capitulation to anti-Semitism by authors who never considered what it meant to live in exile as a potential "enemy alien." Under these circumstances, even the mail can become a problem; one was watched and was required to be registered.

The generation to which Lang and Adorno belonged can be seen as the last real letter-writers. Flight, emigration, and exile certainly contributed to the fact that their letters are so worth reading. From the letters, it is possible to extract how close the friendship between Adorno and Lang became. With their life-partners, "Giraffe" Gretel Adorno and "Micky" Lily Latté, they integrated themselves into an animal realm of nicknames- and war names, an empire of pseudonyms in the close circle around Adorno's best friend, Max Horkheimer, the founder of critical theory. In 1946, Horkheimer himself, who at that time lived in Pacific Palisades next to Thomas Mann, ceremoniously delivered to Lang, "in the name of the Kingdom of Dogs," a "declaration of independence from degenerate humanity" after consultation with the "hippopotamus king Archibald,"[5] i.e. Adorno. Lang would be lovingly titled *badger* in future letters. Whoever is familiar with the timidity of Horkeimer and Adorno — they addressed each other formally for almost forty years despite their joint book-writing — will appreciate this adoption of animal names for private use as proof of the closeness of this relationship. They first became genuinely close in Hollywood in 1941. Adorno was finally allowed to leave New York, where he had been working since 1938 in the service of the Institute for Social Research, which had moved to Columbia University, while also contributing to the Princeton Radio Research Project. Now he wanted to devote himself to a large project, a book on the dialectic, with Horkheimer, free from the stress of normal conditions of empirical social research. Only "Philosophical Fragments," which were conceptualized as a kind of message in a bottle, appeared in mimeographed form in 1944. Today one must recognize this book, published under the title Dialectic of Enlightenment by the Amsterdam Querido Publishing in 1947, as the key work of critical theory, which is associated with the names Horkheimer and Adorno.

In the Dialectic of Enlightenment one finds the famous chapter "The Culture Industry: Enlightenment as Mass Deception," which is however much more notorious than read. Although no documents have yet been found to prove it, it remains unimaginable that the *badger*, the close friend of both Horkheimer and Adorno, should not have seen this text *in statu*

5. Max Horkheimer, *Gesammelte Schriften* (Frankfurt am Main: S. Fischer, 1985) vol. 12, pp. 342-345. Cited hereafter as HGS.

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nascendi. The chapter is filled with references to films, famous actors and directors. Academic posterity missed, for the most part, the ironic tone, which is only understandable from the position of extreme intimacy with the object of criticism. "For centuries society has prepared for Victor Mature and Mickey Rooney."[6] Unfortunately, letters between Adorno and Lang understandably do not exist from this time, since the two frequently telephoned with each other, constantly visited each other, and read to one another. Parties and receptions shortened the days — a specific form of activity that Adorno recorded in his nearly simultaneously written *Minima Moralia.* At a party in Malibu, "shortly after the war," Charlie Chaplin performed an Adorno imitation. The leading actor in William Wyler's film The Best Years of our Life, Harold Russell, had "lost a hand during the war and in its place wore practicable claws made of iron. When I shook the right hand, and felt it return the pressure, I was extremely startled, but sensed immediately that I could not reveal my shock to the injured man at any price. In a split second, I transformed my frightened expression into an obliging grimace that must have been far ghastlier. The actor had hardly moved away when Chaplin was already playing the scene back. The laughter he brings about is so near to cruelty; solely in such proximity to cruelty does it find its legitimation and its element of the salvational."[7]

Lang's works stand for the central thoughts of the culture industry chapter: Hollywood is understood as the most advanced system of standardized culture production, which has its pendants in Berlin and Moscow. The genre film is not denounced from a cultured-bourgeois European perspective, as the typical communication-science draped prejudice against the *Dialectic of Enlightenment* would have it. Both the later denouncers and apologists of the *Dialectic of* Enlightenment overlook the productive fantasy, which — according to the authors of the book — the Hollywood system prevents from developing. The "fusion of culture and entertainment" is criticized because it trivializes culture, but also due to the "intellectualization of amusement." With this, the cinema is deprived of its best: "In some revue films, and especially in grotesque stories and 'funnies' the possibility of this negation is momentarily glimpsed. Its realization, of course, cannot be allowed. Pure amusement indulged to the

6. Max Horkheimer, Theodor W. Adorno, *Dialectic of Enlightenment,* tr. By Edmund Jephcott (Stanford: Stanford University Press 2002), p. 126.

7. Theodor W. Adorno, "Chaplin Times Two," tr. by John Mackay, *Yale Journal of Criticism,* 1996 (Vol. 9, Nr. 1), 60-61.

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full, relaxed abandon to colorful associations and merry nonsense, is cut short by amusement in its marketable form: it is disrupted by the surrogate of a coherent meaning with which the culture industry insists on endowing its products while at the same time slyly misusing them as pretexts for bringing on the stars."[8] The text was actually created through participatory observation with actors, composers, writers, producers and directors of every kind, at the height of the studio system.[9]

The fact that Horkheimer even moved from New York to Los Angeles, and consequently that Adorno came to Los Angeles too, is due to the acquaintance with William (Willhelm) Dieterle, who had been in Hollywood with his wife Charlotte since 1930. Dieterle had convinced Horkheimer to leave the hectic and expensive East Coast metropolis of New York, where it was not possible to think of a home and garden, let alone of retirement from university life. In the only contribution from a film director to an academically renowned journal, *Studies in Philosophy and Social Science*, Dieterle wrote in 1941 about Hollywood's fear of the loss of the European market.[10] According to Dieterle, the film bosses bore no sympathy for Hitler whatsoever; but political activity against National Socialism had a directly detrimental effect on their business.

The political situation changed radically with the entry of the United States into the world war. All of a sudden Hollywood too expected its own "war effort." Just like the actors who earlier, due to their accents, had had difficulty finding work and now finally were given parts in the anti-Nazi films, from SS-officers to concentration camp prisoners,[11] the

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8. Horkheimer, Adorno, *Dialectic of Enlightenment*, op.cit., p. 114. Already in his ground-breaking essay "On the Fetish Character in Music and the Regression of Listening" (1938) Adorno grants the Marx Brothers "with great force" de facto the "insight of the philosophy of history on the decay of the operatic form" (Adorno, *The Culture Industry* (New York: Routledge 2004), p.59). The irony in the notion of "culture industry" which, according to its own self-understanding, wants to be a normal industry like the steel or automobile industry, but cannot of course, despite its ostentatious commercialism, is almost always overlooked in the recent reception of the culture industry chapter.

9. In the middle of March 1958, Lang and Adorno conducted a debate on questions from the culture industry chapter of *Dialectic of Enlightenment*, which was recorded by the Hessian radio broadcasting service but was not broadcast, and was unfortunately also not stored in the archive, Aurich op. cit, p. 406f.

10. William Dieterle, "Hollywood and the European Crisis" in *Studies in Philosophy and Social Science* (vol. 9, nr. 1, 1941), p. 101. Dieterle attempts to support his theory on the "industrial" character of Hollywood in 1940 with facts and figures: "... the motion business seventh in rank among the leading American industries."

11. Jan-Christopher Horak, *Anti-Nazi-Filme der deutschsprachigen Emigration von Hollywood 1939-1945* (Frankfurt am Main: Suhrkamp 1984).

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exile scene as a whole profited, as its knowledge about Europe became highly valuable. Many of those émigré social scientists searching for work found meaningful occupation at the OWI (Office of War Information) and later at the OSS (Office for Strategic Services).

Even Bertolt Brecht, who had also faced tough economic times, received the opportunity to work on *Hangman also Die* with Lang. Brecht first came to California from Vladivostok at the last possible minute, in 1941, on the ship "Annie Johnson." Due to costs, the theaterman chose to stay on the west coast, especially after his bad experience from the year 1935, when Hans Eisler, who had been teaching for the New School for Social Research at the 'University of Exile,' arranged an ultimately failed performance of *The Mother.*[12] Dieterle and Lang had apparently financed the journey by ship, which saved Brecht from an exile in Moscow, which would have probably proved fatal. Eisler, who was successful in the film score business, also tended toward Hollywood. Adorno had already met up with this old acquaintance from Vienna in London in 1934, and then again during his days in New York after 1938.[13] As of 1941, it was possible to meet all of them frequently at the house of Salka Viertel, who was married to one of the few directors that Brecht accepted (other than himself), namely Berthold Viertel. Salka's brother was Eduard Steuermann, with whom Adorno had studied piano, and who knew Eisler very well from Vienna. Salka, who wrote screenplays for MGM, was also present in 1934-35, when her boss negotiated with Arnold Schoenberg, revered as a maestro in the music scene, over a a 25,000 honorarium for the musical score for *The Good Earth* (directed by Sidney Franklin and Victor Fleming). Schönberg, who was trying to keep his head above water by giving composing lessons and with poorly paid university lectures, played the part of the grand seigneur and distinguished artist during these discussions; he rigorously rejected traditional film music as mere background music, demanded control over the entire structure of the music, and doubled the amount of the honorarium. Thalberg had to be satisfied with what

12. Further reading about this episode can be found in James K. Lyon, *Bertolt Brecht in Amerika* (Frankfurt: Suhrkamp, 1984), pp. 34ff.

13. Walter Benjamin also met the industrious Eisler in the summer at Brecht's exile in Svendborg: "That Eisler has more success with film music than others with him—that was already my impression in the summer," Benjamin sarcastically wrote to Adorno (November 30, 1934). *Adorno-Benjamin, Briefweschel 1928-1940* (Frankfurt am Main: Suhrkamp 1994), p. 81.

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the music director of MGM's music department could arrange.[14] This too belongs to Minima Moralia, which only carries this title because it reflects the survivor's guilt of the intellectuals, who had been banished into paradise.

Brecht too stylized himself as a victim of Hollywood, something that Horkheimer and Adorno were never inclined to do. The culture industry — this too is almost always overlooked — can only be understood as an ironic concept, which takes on the false self-consciousness of the bosses and their staffs. Adorno could not stand reactionary cultural criticism. Yet neither could the simple way out of class-struggle, which Brecht and Eisler liked to claim for themselves and recommended to others, meet the standards of Minima Moralia. While Brecht was then busy fine-tuning Arturo Ui, and faced well deserved criticism from Adorno, his most convincing works reflected the the situation of exile — one only needs to think of the poem "To Posterity."

Just like Brecht, Adorno did not consider himself to be an immigrant but rather a refugee in American asylum. Lang, by way of contrast, saw his situation differently. Despite huge frustrations with the studios, he succeeded in gaining ground in the center of Hollywood production. He was even successful in directing the most American of all genres, the western, for example in *The Return of Frank James* (1940). Lang took genre production to its peak; the lonely struggle of Henry Fonda perforated the prominent superficiality, under which societal mechanisms and mediations became visible. Long had already accomplished this in German with *M* (1931) with Peter Lorre, and in English with *Fury* (1935/36) with Spencer Tracy. He knew very well how to handle the world of stars and use it for his own purposes. Adorno's conception of the culture industry of the *ready made* as an *instant product*, could certainly be derived from this. Godard recognized Lang's pioneering work in the explicit

14. Salka Viertel, *Das unbelehrbare Herz. Ein Leben in der Welt des Theaters, der Literatur und des Films*. (Reinbek bei Hamburg :Rowohlt, 1979), pp. 218-221. A trace of the scurrilous dialogue between Schönberg and Thalberg can be found also in Adorno 1966: "*...my music is not lovely*, growled Schönberg in Hollywood, when a film mogul, whom he didn't know, tried to pay him a compliment." (Theodor W. Adorno, "Die Kunst und die Künste" in *Gesammelte Schriften*, vol. 10, p. 435). In "Deutsch-Kalifornien," one did not simply gossip about how to earn money and collect donations. Salka Viertel was one of the first people to whom Max Horkheimer confided his new political-theoretical concept on June 29, 1940: " In the face of what is now befalling Europe and perhaps the whole world, our current work is essentially predetermined to survive through the night, that is coming: a sort of message in a bottle," Max Horkheimer, *Gesammelte Schriften*, Vol. 16 (Frankfurt: S. Fischer, 1995), p. 726.

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staging and created *Contempt* as an hommage to him in 1963. It is highly unlikely that Godard—winner of the Theodor W. Adorno Prize in 1995—read the *Dialectic of Enlightenment*; but Odysseus, whom Lang staged as film in this film, is the *Dialectic of Enlightenment*'s archetype of bourgeois subjectivity, run over by world history in the early twentieth century. The harbor steps in Odessa and the roof of the Malaparte's villa on Capri, both after all shot on location in two major films, can measure of the height of the century's culture.[15]

Brecht wanted to regard Lang as an equal. He criticized Lang for all that happened to the original script of *Hangman also Die*. Brecht, who liked to stylize himself as a pure Marxist, misunderstood the social conditions of film production, recognizing only the phenomenon of financial dependency in an economistic sense. But these were only postures that Brecht adopted when they were convenient. He could change perspectives, whenever it seemed necessary, or –as he liked to put it—useful, for him. The superficial contradictions of ethnic slurs or patriotic commitment in the emigrant community were completely transparent for him. On November 14, 1941, he noted in his work journal, "it is difficult for refugees to avoid either indulging in wild abuse of the 'americans', or 'talking with their pay-checks in their mouths' as kortner puts it when he is having a go at those who earn well and talk well of the USA. In general their criticism is directed at certain highly capitalistic features, like the very advanced commercialization of art, the smugness of the middle classes, the treatment of culture as a commodity rather than a utility, the formalistic character of democracy (the economic basis for which—namely competition between independent producers—has got lost somewhere)."[16] Even for Brecht, there was no simple American schema. Epic theater can be seen as a counter design to the film industry. Adorno noted in the continuation of the culture industry chapter, which was not published in his lifetime that "the montage effects which Brecht introduced into drama imply the almost complete interchangeability of time...Thus in spite of its discontinuous nature this procedure comes to resemble the lack of resistance of cinematographic technique, just as in fact all Brecht's innovations could be read as an attempt to salvage the theater in an age of film

15. Adorno was very taken with Lang's appearance in *Contempt* and regretted "that one had edited so much the scenes that related to the Odyssey." Adorno to Lang (February 10, 1965) cited from Aurich op.cit, p. 482.

16. Bertolt Brecht. *Journals 1934-1955*, trans. Hugh Rorrison (New York: Routledge, 1993), 170.

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after the disintegration of psychology."[17]

Brecht needed the money from the collaboration on *Hangman also Die* in order to finance his work. According to the believable source Salka Viertel, Brecht was prepared to go much farther in selling his labor. He asked her whether they could collaborate on a purely commercial screenplay for the film studios — writing on spec, as they called this common practice in Hollywood. But even this incredible combination of an experienced screen writer and one of the most productive and imaginative German authors was not able to produce the dream-script, which could release them from financial worries. Only frustration remained, corrosive malice and self-irony, all of which are richly found in Brecht's work journal. This journal mirrors, even when a bit distorted, the friends Lang and Adorno, who, beginning in January 1942, came under Brecht's sharp, sometimes angry, gaze. The enormous respect, which Brecht had for Adorno's old friend Walter Benjamin, who lost his life trying to escape the Nazis, was transferred onto Adorno, no matter how Brecht criticized him in the *Tui* novel. Brecht's snotty anti-intellectualism, which had earlier deeply shocked the older Benjamin on his visit to Brecht's Danish exile, made Adorno uncomfortable too. Only very late would Adorno realize that this anti-intellectualism was what he found so repugnant in Brecht. The confusion of truth with playing the fool in order to survive caused Adorno difficulty with Brecht. Precisely because they were so similar in many points, it only took the smallest of differences in the eyes of the FBI and *sub specie* of the Hollywood culture industry to separate them from each other absolutely. In decisive places in his work, arguments from Brecht take their place. The otherwise resourceful publisher of Adorno's works could not find the "great segment from Brecht," which Adorno had taken out of his *Lectures on Metaphysics* and had emphasized in *Negative Dialectics*, when he pointed out the "failure of culture" "because its mansion," according to a paraphrase of Brecht, "is built of dog shit."[18] A line of verbal contacts leads here, from "Red Wedding" in Benjamin's lifetime, to the emphatic review of *Mahagonny,* to which Adorno attributed surrealistic qualities, to the discussion partner in Hollywood, when they received the first reports of the universe of the concentration and death camps, which drove Adorno to assert that "to write

17. Theodor W. Adorno, "The Schema of Mass Culture." *The Culture Industry* (New York: Routledge 2004), p. 73.

18. Theodor W. Adorno, *Negative Dialectics* (New York: Continuum Publishing, 1983), p. 366.

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poetry after Auschwitz is barbaric,"— with the second part of the sentence, which was withheld from the public "and this corrodes even the knowledge of why it has become impossible to write poetry today."[19] The genesis of this thought certainly leads back to the time, when Peter Lorre read Brecht poems aloud for the small community in exile at the foot of the film palaces —" Ah, what an age it is/When to speak of trees is almost a crime/For it is a kind of silence about injustice."[20]

From the Dialectic of Enlightenment, it is possible to extract the spirit of discussion, which enlivened the authors, actors, directors, producers and intellectuals, as they exchanged their experiences with the culture industry. Brecht's famous radio theory[21] responded to the development of the Weimar Republic's broadcast service. Adorno was familiar with the radio from the time it helped his friend Benjamin make ends meet financially, in the wake of the international economic crisis. No similar radio network existed in any form in America, and Horkheimer and Adorno marked the tendency to authoritarian culture in the transition from telephone to radio: "The former liberally permitted the participant to play the role of subject. The latter democratically makes everyone equally into listeners, in order to expose them in authoritarian fashion to the same programs put out by different stations. No mechanism of reply has been developed, and private transmissions are condemned to unfreedom."[22] At this point, one of Brecht's main thoughts from the left over "pre-fascist Europe"[23] was made useful for the analysis of the advanced American present, out of which Adorno and Horkheimer's more precise knowledge extracted a breath-taking prognosis of the future of television — a development "which easily enough could push the Warner brothers into the doubtless unwelcome position of little theater performers and cultural conservative."[24] From this, Brecht drew politically questionable consequences: the market independence of his epic theater on the Schiffbauerdamm in East Berlin had the authoritarian GDR as a prerequisite, from which he cunningly maintained independence (by retaining an Austrian

19. Adorno, "Cultural Criticism and Society, in *Prisms* trans. Samuel and Shierry Weber (Cambridge: MIT, 1981), p. 34.
20. Bertolt Brecht, "To Posterity," in *Selected Poems*, trans. H.R.Hays (New York: Harcourt, 1947), 173.
21. Bertolt Brecht, Radiotheorie 1927 until 1932, in *Gesammelte* (Frankfurt: Suhrkamp, 1967), Vol. 18, pp. 119-134.
22. Horkheimer and Adorno, *Dialectic of Enlightenment* , pp. 95-96.
23. *Ibid,* p. 105.
24. *Ibid.*, pp.130-131.

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passport); this independence must have had an effect on the substance of his artistic production. The praise poetry which he wrote after 1949 to whomever, and which his friend Eisler set to music, trumpet out political stupidity even after the collapse of really-existing socialism. In this dispute, Adorno, whom he had ridiculed as "Tui," was right in the end. The showy self-confidence and sarcasm, which both Eisler and Brecht demonstrated in Hollywood exile, concealed the difficulties, which they felt as well in view of a production of culture, which made them submissive to the standards of an industrially reproduced consumer culture.

Brecht was never completely external to these conditions, and Eisler not at all. He wrote the music to *Hangman also Die*, which poked fun at the stupidity of the system — in "the Song of Lidice," he smuggled in parts of Communist Party songs. Eisler was even nominated for an Oscar. Contrary to Brecht's self-stylization, Lang fought quite long for Brecht's honorarium, which at last enabled the playwright to produce, relatively worry-free, three plays within two years. Brecht himself did not avoid using tricks in establishing his theater in the USA. He made use of a star, Charles Laughton, so that the American theater public could not overlook his play, *Galileo*. But this could not have succeeded under the auspices of a thoroughly commercialized theater culture. In the second half of the 1940's, precisely the big stars were the allies of the critical intellectuals; for they experienced on their own bodies the depreciation of their talents. A director like Dieterle, who risked everything as a producer, in order to make qualitatively good films according to his requirements, suffered economic catastrophes in the declining situation of the film industry and the beginning of television in California in 1947. With the sudden introduction of color TV, which had already begun in the USA in 1950, all the conditions, which had belonged to the empirical basis of the *Dialectic of Enlightenment*, changed. At the same time, the political enemies of Hollywood finally felt strong enough to prepare an end for the mixture of moral squalor and political untrustworthiness. The McCarthy Era, with the restless activity of the HUAC, which hardly allowed emigrants an escape between character assassination, self-humiliation, travel ban, deportation or jail, confronted the (at its core) German-American colony. Lang saw his future in America until the mid - 1950's, when he gave up with exasperation. In contrast, Adorno more quickly identified possibilities for public effectiveness in the Federal Republic of Germany, which had remained closed for him in the USA. He reported this back to America, including to Lang and Thomas Mann, who still viewed returning to a

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hardly de-Nazified Germany with skepticism.

Adorno, who commuted back and forth between Frankfurt and California between 1949 and 1953, felt especially drawn to teaching at the university. He reported about the German situation in 1950 with almost unbelievable amazement: "But the most astonishing thing in the virtually destroyed country is actually not the social and economic damage, but rather exactly the opposite, that despite everything, at least on the surface, 'normal life' has once again prevailed. A certain general de-politicization, as a reaction to the Nazi times, appears to prevent the rise of real conflict situations, as well as the generalized consciousness of being a colonial country."[25] After he returned to Frankfurt in 1953, after a frustrating year of research in California, Adorno confessed unrealistic musings to Lang on October 2, 1953: "Actually, one must really divide one's time between over there and here — but that of course has its obvious difficulties and is not exactly the most satisfying way of living. But where can one find it?"[26]

In the mean time, Lang went through his own negative experiences in America. No one in Hollywood wanted to take on his film projects anymore; he accepted with thanks an offer from Artur Brauner in Berlin. But even on the German market, a remake of *Indisches Grabmal,* brought out in two parts, was not realizable. Still, in the title choice of the first part, *Der Tiger von Eschnapur*, one finds a trace of the old California discussion over the representation of the animalistic. In the sixties, Adorno began to reminisce about his time in Hollywood. In a letter congratulating Chaplin on his seventy-fifth birthday, he calls him the "a vegetarian Bengal tiger"[27] — it was perhaps hardly possible for the German reader of 1964 to understand what this designation meant in Adorno's oeuvre. Adorno is confident in Chaplin's ability to force conciliation from the barbarity of the culture industry, which the carnivore-code represents. The common prejudice that Adorno, the elitist expert of high culture, disdained film as an art form, contradicts not only his esteem for Chaplin but also his appreciation of Lang. Since the twenties, film played a role in the Adorno household. With his beloved aunt Agathe, he regularly visited the cinema; since his youth he was a discussion partner, on at least equal footing, for his significantly older mentor Siegfried Kracauer, to whom texts from the sixties, such as "Film Transparences," refer. Also, Adorno bought together one of his most talented students, Alexander Kluge, with

25. Adorno to Lang, (November 29, 1950) cited from Aurich op. cit., p. 405.
26. Adorno to Lang (October 2, 1953) cited from Aurich op. cit., p. 405f.
27. Theodor W. Adorno, "Chaplin Times Two," op. cit., p. 60.

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Lang, his old friend from Hollywood days. Kluge reports Adorno's funny paradoxes relating to film, which could not have come from an amateurish mind, "actually the only thing about film that bothered him was the picture." Adorno's main film-critical topic was the critique of the paradigm of realism, which can be traced back into even the subtlest commentaries from the early 1940's.

Lang, who, in the cineastic Europe of the early sixties, found appreciation everywhere, from the Parisian *Cahiers du Cinema* to the Frankfurt Film Studio, often visited Adorno, now permanently returned to Europe. During this time, the previously mentioned conversation with young film researchers, who defended the aesthetic autonomy of Lang's cinema against Adorno, took place. Lang, who was directly interested in the young people, stopped Adorno with the words "now wait just a minute." Both of them wanted to have an influence on the younger generation, to which another nice story from Adorno's former assistant, Regina Becker-Schmitt, also attests. While visiting the Frankfurt Institute for Social Research, Lang got into a fight with Adorno over whether Ingmar Bergmann's *Tystnaden* (*The Silence*) was pornographic, Adorno's young assistant was called upon, and she sided with Adorno. Upon Lang's comment that it was not surprising, since after all, the young lady was of course Adorno's assistant, Adorno responded with outrage: "being my student, she is an independently thinking person, she follows her own mind." Full of anger, Adorno grabbed hat and coat, but, as it turns out, not his own: "And then we were given a completely ridiculous sight: Adorno had grabbed Fritz Lang's hat and coat — the hat was much too big and slipped down over his ears, the coat was much too long, Adorno's arms and hands had disappeared into it. Taken aback, Adorno glanced down at himself, and then — still full of anger — called out 'and now you surely think that I have identified with you just because I have your hat on my head.' The entire situation dissolved into hearty laughter."

In the mid-sixties, while Lang, though considered the most admired director in Europe, was leading a lonely existence in Beverly Hills, Adorno, beloved by his students, was at the high point of his career in Frankfurt. The meeting with Adorno's student Alexander Kluge as a trainee for Artur Brauner must have left Lang with an ambivalent impression; for he had to discover in a brilliant article by Uwe Nettelbeck in *Die Zeit*[28] that Kluge had not learned how to make films under his tutelage

28. Uwe Nettelbeck, Die Verwirrung der Anita G., Alexander Kluge's Film "Abschied von Gestern," in *Die Zeit* (August, 30 1966).

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but, on the contrary, he had learned from Adorno why one could no longer make films in the traditional manner. Lang left his mark in Alexander Kluge's debut *Abschied von Gestern, quasi ex negativo* as the stepfather for the auteur films in West Germany. Lang watched Adorno's later conflict with his students with sympathy; he connected the heart attack, which Adorno suffered in the Swiss Alps, with Adorno's experience, "that his students have done what he had been teaching them for the last twenty years, namely to rebel. He never comprehended that they could also rebel against him, as in my opinion, he never really understood the youth of today at all," as he wrote in a letter to Eleanor Rosé directly after Adorno's death, on September 5, 1969. We know nothing about the discussion that Lang claimed to have had in April 1969, but in this friendship between Rosé and Lang, animals play an decisive role. One can read here about Peter, Lang's stuffed monkey, and about the cat Magali, who also contributes to the letter exchange. Lang shares with them, the author Rosé and her cat, that "without him," that is, without Adorno, it has "once again become much emptier around me."[29] The old friendship of two unlikely men must have been much more intense than the letters from the estate disclose.

29. Lang to Rosé, 5.9.1969, cited from Aurich, *op. cit.*, p. 450.

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Notes on Film

Howard Eiland

> Films are the only film school, remember that.
> — Louis Aragon, "On Decor" (1918)

The old debate about the difference between silent film and sound film. The former goes through a rapid development, freeing itself from the framework of the theater, and reaches a brief but rich maturity before yielding its audience to the latter, which, with its return to theater via spoken dialogue, initially entails a regression in artistry. The unique formal language of silent film at its best – a language of gestures and of faces in constant permutation, hieratic and mask-like at times, given to passages of extreme acceleration and of near paralysis, with spatial layering as a rule and the sometimes scarcely perceptible proliferation of decor – this plastic language alternately austere and extravagant yields to the clever chatter and broad strokes of the talkies, and what has been called the institutional mode of representation. Such originally polyvalent devices as superimposition and lap dissolve are either eliminated or restricted to a relatively simple transitional function after the introduction of sound film, with its more exclusively linear imperatives. In silent film, these devices could suggest the interrelation of various time levels, the immanence of past or future in the present, or the interrelation of reality and fantasy, waking world and dream, presence and absence, and sometimes could do all this at once. No doubt sound film itself matured quickly enough in the course of the Thirties, repossessing the legacy of silent film (Vigo's *L'Atalante* and Ophuls' *La Signora di Tutti*, both released in 1934, attest to this), so that today one is inclined to speak of the evolving formal and thematic continuity of a single medium through different historical and stylistic periods rather than of two essentially distinct media with two essentially different ways of seeing. Nevertheless, to an eye sated with the

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technological sophistications of contemporary cinema, those shadowy and radiant images from the silent era often feel surprisingly new and strange, seem to resonate with the grandeur of a Giotto or the delicacy of a Simone Martini, or at any rate with the ritual aura of a Nadar or Mathew Brady, as if the ostensibly archaic mode in motion pictures suddenly revealed itself as the truly revolutionary one.

As the geometric forms in cubist painting threaten to overwhelm the human figure in their midst, the figure which nevertheless asserts itself in its humanity, so the visual design – the décor, the montage, the masquerade – threatens to overwhelm the characters in *L'Inhumaine*. But by the most delicate of (comic) maneuvers, the human element emerges intact and triumphs. The two central characters, who in their different ways are artists, together discover the higher humanism, which risks the *expérience* of danger and stands under the sign of death that is finally the sign of love.

Claire is poised between the Eastern despot and the Western (Nordic) scientist, between black magic and white magic, the jungle and the technological apparatus – just as the film as a whole mediates between a formalist and a mimetic imperative. By his elaborate machination, Einer appeals to the (inhuman) artist in Claire, the artist who had mockingly invited his suicide; he does so in order to overcome her (human) feelings of resentment at being tricked and in order to bring out her true humanity in mourning and love. His radio-tv transmission gives her what she wants (a world tour, if only virtual), while also providing for what *he* wants (which is to keep her there). Masquerade becomes the gateway to truth – the overcoming in exaltation (the *Aufhebung*) of humanity.

The film makes explicit what is ultimately at issue in L'Herbier's earlier film, the celebrated *Eldorado*: the conflict between form and content, visual design and mimesis, *inhumaine* and *humaine*. It is a perfect pendant to *Eldorado*. Whereas the latter is a tragedy (*mélodrame*) of "mother love," *L'Inhumaine* is a comedy (*féerie*) – a comedy of seduction that turns into a comedy of death and resurrection. Each of the lovers, in this operatic *jeu*, has to die for the other to prove his or her humanity – for love is inhumane.

The ending of Epstein's *Fall of the House of Usher* should be compared to the ending of Murnau's *Faust*. The ideology of love: saved from/

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through the flames.

Queen Kelly. A girl's entrance into sexuality. Her panties fall down, unbeknownst to her, opening the door to – men. She gives her *heart* (her "panties") to the prince, in a delicious intoxication, a mist of white orchids, though there is a hint of playacting in it all. Stolen away from the nunnery (an innocent or a whore?), she enters the palace of true adoration, only to be driven out by the prince's intended, the queen, who is really a whip lady in a fur-trimmed black negligee. Another door is opening, now to a dark and savage place that, in its atmosphere of cozy corruption, is the exact opposite to the garden of princes. The palace gives way to the bordello, Europe yields to Africa. She comes of age. She refuses the fond prince (who in a vision – he was always a vision – asks her to "wait," to stay pure for him), and she gives her *hand* to the magnificently crippled old degenerate, with whom she manages the house of prostitution. — A true film fairy tale.

Kelly's initial confrontation with the gun-toting, cigar-chomping old man on crutches, in the room of the dying madam, as he slowly approaches the bedside in his mechanical, relentless rhythm, leering at her through the gauzy bedcurtains that have replaced the orchids, is one of the great typifying moments of silent film.

The jealous queen who whips Kelly out of the palace and the dying madam who demands Kelly's sacrifice to the old satyr: two aspects of the mother at whose bidding the girl loses her virginity. It is interesting that the old madam who presides over the horrible initiation rite, and then dies so that "Queen Kelly" can take her place, is seen as a figure of love, however stern. Like Kelly, she has tears in her eyes.

The projected conclusion is irrelevant to the film's significance. The film stands on its own as a consummate fragment.

The remarkable thing about *Pandora's Box* is that it establishes a standard for sober realism in film while exploiting the most melodramatic of material.

Pandora the nymph is pure image, pure surface; she resists all psychoanalysis and serves only to reflect the desires of those who surround her.

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She is the mystery at the heart of sober reality. All grow weak before her, make fools of themselves – even for a moment Death himself, in the person of Jack the Ripper.

The New Babylon: more genuinely dramatic – but also more sober – than either *Potemkin* or *Earth* or *Mother*. The searing dramatic cell – whose theme is nothing less than the failure of the revolution – the story of the soldier and the midinette develops within a complex tissue of situations, as within a whirling, multifaceted bauble. The intercutting of the plot lines, the rapid editing (which, because it is integrated into a story, is never mechanical, like Vertov's), makes for extraordinary density – comparable only, in the universe of silent film, to the texture of such singularities as *A Page of Madness* or *Ménilmontant*. A plethora of contrasts and correspondences becomes apparent on repeated viewings. The explosive multiplicity ultimately subserves a dazzling coherence – but austerely dazzling. Its severity is grounded in the analysis of failure. The farmer who is caught in the middle, contemptuous of the bosses and drawn to the workers, cannot act on his feelings; he raises the shovel in a gesture of protest but, in his cowardice, miserably resigns himself to digging the graves of the Communards at the end. All that remains of their revolutionary zeal is a slogan, a white script traced on a stone wall – "Vive la Commune" – a historical record, an exhortation, a bitter irony, another ornament in the department store of the world: the ever new Babylon.

The movement of the gravediggers in the background at the end, on the field of battle, reflects the movement of the dancers in the background at the beginning, in the Paris department store: a suggestive correspondence, both visually and thematically, by which background and foreground are "equalized," in Eisenstein's sense. The deadly intoxication of the Commune, its dance of death pervades the film.

The typage in *New Babylon* reminds one of Daumier.

One can be a supreme master of montage and make a mindless film: *Napoleon*.

At the end of *Blonde Venus*, Ned tells Helen that home, with husband and child, is where she belongs. And she gratefully accepts his embrace. Yet the film has shown that the one thing that saves her from utter ruin is

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her talent and the spirit to put it to use. Where she *belongs* is on the stage. In the typical Expressionist schema that underlies all Sternberg's films, she must gradually descend into a hell of humiliation, must come face to face in a flop house with that old hag suicide – throwing all her hopes for happiness to the winds – before finally achieving redemption in the form of a career as artiste. But the ending does not acknowledge her achievement. The woman is entirely absorbed in the image of motherhood, before which the two decent men in her life quake helplessly, while the child is empowered. Or almost entirely: for she has a last song, a child's song, and her performance restores all that was lost, all their youth and innocence. (Though it doesn't restore the rich playboy, her good fairy and double, whom she must truly renounce, as he renounces her – all of this cogent only on a symbolic level, for on the literal level of the plot it is barely comprehended: Helen and Townsend both appear double in the mirror, and that is about the extent of the comprehension.) Only Dietrich's insouciance, the archness playing at the corners of her mouth, reminds us of the nihilism inhabiting her courage. — The ending, then, is confused and inane at the same time that it is tender and illuminating.

One of the keys to Sternberg's style – and it may be said that he and Welles are the great stylists of American film – is the alternation of baroque articulation of spatial depth with plain, barely detailed surface: in *Blonde Venus*, the nooks and crannies of the bar into which cunning Helen leads the detective alternating with the fine pale mask of Dietrich's face.

Sunrise is a seductive movie. Why should those old vows of marriage move us so? And why should we in turn want to love and protect that paragon of virtue played by Janet Gaynor? No doubt the power of the acting is only one reason for this appeal. The resonance of the simple story – the sense of entry (through the twilight fields and over the fence) and initiation (across the waters) into an underworld, the sense of damnation and redemption – this rhythm of the parable, to which the acting, directing, writing, and cinematography contribute equally, is what really "moves us." It is only because we accept the violence of the hero, as reflected in virtually every milieu he passes through, that we embrace the ideals of purity and goodness embodied in his wife.

Master of the House is more sophisticated in its story and characterization; the women are neither vamps nor angels. Its comedy and drama

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are fully integrated into each other and there is no wasted detail. It is a more perfect film than *Sunrise*, but it does not cut as deep.

The dialectics of marriage in *Beauty and the Beast*: the woman initially the moral principle, man the animal. But for the marriage to work, the partners must change places, they must come to mirror each other; for it to get off the ground, it must enter the ground (the woods, the earth). In order to become a prince, the man must be filled with shame, and in order to fly from the bondage of serving her family, the woman must open out sexually, learning to love what she fears, becoming a goddess of the hunt.

Thus, the importance of corridors. The house and the forest are ultimately merged.

The difference between the father's house and the beast's house is a difference in space, a difference that is palpable, that we feel. The space of the father's house is static, that of the beast's dynamic. The latter is a charmed space, in which everything is alive and in motion, a transformational space, a dream space. The former is the space of everyday. It is a matter of two rhythms, that of poetry and that of prose. In the course of the film, these image spaces, these rhythms are interwoven, as certain objects – the horse, the mirror, the glove, the key – communicate between them. Belle is transformed before the eyes of her family into the princess she always was, and the Beast behaves more and more like a bourgeois husband.

Dreyer's *Michael*: the slow, steady pacing, building a tide of inevitability, the attention to nuance of the most delicate sort, the opening out of time in the scenes, the subtlety and depth of the characterization – all this, as the film unfolds, is entirely unobtrusive, in keeping with the intimacy of the action, yet it comes together in the end to make an overwhelming impression. The characters move like tragic puppets through the layered décor – we see such puppets literally at one point in Michael's room – all of them driven by their passions and interlocked in their various betrayals and their bids for possession. Even the ancient steward of the household, a figure of undying, sublime devotion, is enlisted in Michael's schemes to appropriate the master's things. As a study of corruption and self-deception among the highly civilized, it has few peers in the world of cinema.[1]

1. Its peers include *The Rules of the Game*, *The Earrings of Madame De*, *A Matter of Dignity*, *The Marquise of O*.

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Perhaps the subtlest irony in the film lies in the fact that Claude Zoret, "the master," is ultimately shown to be the truest *lover* of them all, the most long-suffering, generous, and forgiving (much more convincing as a hero of unrequited love – especially on his deathbed, with those seemingly bitter smiles – than is Gertrud in Dreyer's last film). His last words are an affirmation of true love, and they are taken up as the film's epigraph. His *paintings*, on the other hand, are patently academic – "unreal" (*unwahr*), as a reviewer of one of his shows puts it. The callow insecure Michael, it is suggested, has more real talent, though it emerges only in flashes, is undisciplined and unproductive, and may be a matter simply of greater vitality. At bottom, apollonian formal detachment is nothing without some degree of dionysian immersion in the subject matter, and this explains why Zoret's final achievement, an allegory of suffering solitude, may be supposed to have some truth to it after all. Dreyer's acid take on the art world goes together with his cool analysis of the artistic personality and his ruthless interrogation of destructive desire.

Vampyr is a fairy tale; there is no development of character. Nevertheless, there is a profound mimetic dimension, a profound humanity – mainly in the presentation of the family victimized by the vampire, in the father, the two daughters, the servants, above all the housekeeper (in the scene with the younger daughter when the father is shot). Unlike the protagonist, the young man who visits them, they resist the claim of the shadows that prey on them. The protagonist, artist-like, seeks out the shadows and, for a while at least, becomes a shadow himself. But the dream-journey into the land of the dead, into horror, has its heart in the mimesis of fear (in the father), of despair (in the older daughter), of infinite sorrow (in the housekeeper). The restless drive of the action – a drive to know (signaled by the book on vampires), to penetrate unknown corners – is immobilized at such moments of emotional depth, and we fall into a hell more real than any dreamt of in a fairy tale.

The hearth in the old peasant woman Marthe's house, at the beginning of *Day of Wrath*, is not seen again; it is nonetheless part of the intricate web of motifs in this film, for it shows up reflected in the "flame" in Anne's eyes and, of course, in the "stake." Love and death are merged in witchcraft. But it is through witchcraft that the other visual and verbal motifs are woven together: leaves, the window, the clock, the children. Woven in so subtle a way as to be almost imperceptible yet, as soon as one notices, shattering. The characters are fatally caught in this web of

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witchcraft, which is also a web of guilt. Once again, the living are in the hands of the dead: Marthe controls the action after she is burned at the stake. All the main characters are affected, except Absalon's mother, but it is she who denounces Anne and thus becomes the agent of Marthe (whose last words, practically, were "I'll denounce Anne"). *All* the women are witches – possessors of elemental power. In other words, the severe formal perfection of this film only heightens its drama.

Anne's sin is that she wants to be fulfilled as a woman. She is rejected by husband and lover. She has her dream – the scenes of idyll in nature, ironized by the fatal leaves everywhere – and her tears. At the end, with no one any longer to wipe them, she has her God. — Her confessing to witchcraft is either an admission of truth or else an expression of her guilt to her husband Absalon, an expression prompted by her despair at being abandoned by her lover. If the former, she is conscious of her mother's gift to her, the power to invoke (through "wishing"). And if she is not permitted to have a child – we remember her mother-in-law's passionate assertion that Absalon was the child she had longed for – she can at least revel in this power.

The repression of the woman, of the peasant, and their (secret) revenge: this too is a key element of "witchcraft." Which operates on several levels at the same time and is nothing if not ambiguous. -- To her husband, Anne is childlike, "pure and clear," while to her lover she is mysterious and deep. She is both: innocent and demonic (like the childlike and vampirish Russian princess in *Michael*). This is demonstrated by the sequence in which she appears at the window to watch Marthe going up in flames.

Like *Day of Wrath*, *Ordet* is a movie of windows. Johannes, the Christ figure, is always crawling through windows, whether literally – the last time is to enact the departure and return of his sister-in-law Inger, so that she can herself return (from the dead) – or figuratively, as when he puts candles in the window to cast light into the darkness. Through the window lies the world of those cows, horses, and pigs whose voices accompany the descent into death and the resurrection, the world of the "body": the dead body of the beloved is at the center of this film, Inger's body, to which her husband Mikkel clings in death and which he welcomes back to life. He too has crossed the threshold – into "faith" – and is no longer entirely of this world at the end. Through the window is heard also the voice of the wind, and at the end it enters from outside, with the visionary Johannes, to become the "breath of life." Which is the word of

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love, whose image no doubt is the child. The child is killed and cut to pieces, like Dionysus, and cast into a barnyard pail. His birth into death kills his mother. But these deaths are the occasion for the miracle, also imaged by the child, the dead boy's sister, whose smile is the sign of faith in the life rooted in death. Inger's "death" brings her neighbor Anne into the family, the child who has likewise just crossed the shadow line into womanhood. The two old men cease their bickering to witness the true word ("ordet") awakening. The doctor and the minister look on from a distance, the scientist more alert and receptive – he is the first to notice something strange about the corpse, shortly after Johannes enters transformed (though still not exactly of this world) – while the clergyman, whose love is salaried, remains uncomprehending and hostile, wanting only to put a stop to the proceedings. Mikkel has access to the window of faith; he can make the Kierkegaardian leap because his heart, as Inger says earlier, has always been full of love. He works with the animals on a daily basis, is resolutely "sane," and would never crawl through a window like a child.

All three of the men in *Gertrud* are sharply etched, devastating portraits. The poet: full of himself, a big baby, a self-acknowledged phrasemaker, but withal a man of the heart, who must weep and despair. The attorney: earnest and needy, whose dignity is belied by his frantic desire and concomitant self-deception, whose heartlessness is revealed in his encounters with those closest to him. And the young composer: a cad, arrogant in his genuine artistic gifts, but ignorant of the heart, of true civility (he cannot understand Gertrud's husband), unworthy of a woman's love.

As for Gertrud herself: she is not a character at all, not a self, hardly even a body, but rather, in her "ardent harshness," a mirror, a shadow in a mirror, there to tell the truth about the others, to reveal them in their sentimentality, frustration, and cynicism – the pure criterion by which the others are measured. She is, in short, the ideal woman who, in her positive and negative figurations, her light and darkness, dominates virtually all of Dreyer's surviving films, though nowhere so transparently as here.

The ideal woman – pure gesture. In fact, Gertrud is not taken seriously either as artist or as housewife: it's the man's production that matters in the world. She is not for this world anyway, as the final scene (the most mannered of all) makes clear: she is *always* seen as though shrouded for the grave. Whom has she loved really? It is an irrelevant question. Her love is absolute – beyond work, beyond the flesh. It is love in perfect renunciation.

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In other words, the most moth-eaten spiritualism posing as carnal love. What saves this whole precarious conception, perhaps, is the suggestion of a monstrous narcissism in this angel of unhappiness. But can we salvage the Dreyer ambiguity in that line toward the end: "And in springtime I shall have anemones [over my grave]"? Hers is the most genteel of graves.

The chilling ending of *The Rules of the Game* is of a piece with the atmosphere of "farce and bitterness" (Sadoul) that prevails throughout. The film's sustained spontaneity, comparable in some respects to that of *L'Atalante* or *Under the Roofs of Paris*, though without a hint of lyricism, is fueled no doubt by the knowing improvisations. A principle of orchestrated diffusion rules nearly every scene, something as with the crowds in a Lumière. What Noël Burch calls "topographical reading" is required of the viewer. At issue here is Renoir's classic objectivity.

A sense of disaster hangs over the action, for all its gaiety. Hence, the power of diffusion in Renoir is finally worlds away from that of Tati, whose sunnier satire reflects an era of *post*-war reconstruction. (The scenes in the hallway with the guests going to bed remind one of Tati – and indeed of American slapstick. The rhythm of the film[2] recalls Capra and anticipates Sturges, though these directors lack the amplitude of Renoir.) The film coolly and lovingly delineates the physiognomy of collective madness but prescribes no corrective and offers no consolation.

1939: pervasive confusion that extends even to the hunt. All relations are based on self-deception. The German runs amuck without disrupting business as usual. The sacrifice of the "hero" is a mockery. A courageous film in more senses than one.

The Magnificent Ambersons is distinguished by a magisterial, darkly gleaming pictorial style, but the dialogue is excessively literary, even corny. Presumably a baroque language was felt to be needed to match the baroque design of the visuals, and Agnes Moorehead and Anne Baxter show what was possible in this regard. But time and again the language seems merely flowery, as in a Victorian ladies-magazine story exemplifying true love's abnegation and the humbling of the proud heart. The dissolve from the shut front doors to the mother glimpsed through the

2. Compare the beginning of *La Signora di Tutti*.

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curtained window, or the shot of the son's face reflected in the window pane through which he watches the retreat of his mother's lover (each man will lose his love), say more than all the "fine writing" in the world could do. What is most alive in this film, besides the tragedy of the three main women characters, are the spaces of that house.

The numerous low-angled shots in *Citizen Kane* have something puerile about them – very much the mark of a directorial debut. (Compare the more assured deployment of low angles in, say, *The Little Foxes*.) They are of a piece with the rather ridiculous distance separating Kane from his second wife Susan, as she sits doing a jigsaw puzzle on the floor, or with his broad condescension to her, as though she were a child (one that speaks secretly to the child in him), or with her emphatic vulgarity that so baldly sets off his brittle superbness. Altogether unsubtle. And this is true of the portrait of the two marriages in general. It does not approach the synopsis of marriage in Vidor's *The Crowd.*

The superimposition at the end of *Curse of the Cat People*, whereby the stranger becomes the friend and the friend the stranger. The ambiguity in the status of the apparition is maintained to the last: either the ghost providentially appears through the guise of the menacing young woman, or the child imagines she sees her friend in this sad rejected daughter. In either case, the child's trusting embrace softens the heart of the would-be murderess. She is saved by the ghost of a suicide, or else she suicidally embraces her own killer. What may seem like aesthetic flaws and gaucherie – the stiff ghoulishness of the parents and teacher, the voluptuousness of the secret playmate (noted by Agee in his 1944 review) – have a certain appropriateness. For it is not so much the canon of realism as the logic of dream or the logic of fairy tale (the child falling asleep in the woods) that holds sway here. Beneath the surface of decency and humaneness in this film lurks a rather darker cast of mind, the fruit of almost total estrangement, a child's despair. All of which goes to show that sometimes the most unassuming and even unconscious of movies may be the profound ones.

Gaslight is all about the Victorian domestic interior – about infinite degrees of light and shadow, manifold concealment, the most intricate disposition of space in a drawing room, about locked drawers, curtains, handbags, pockets, every sort of cover and recess. House as fortress, prison, ruin – the filmic equivalent of Satis House. Full of ghosts. Such a

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place is inevitably the scene of a crime, its traces everywhere obscured by the insidious fog, the equivocal gaslight. Circuitously, pausing at every untoward station, magnetized by the profusion of objects, we enter the madness of the Victorian interior.

In short, a cinematographic masterpiece, though the story is full of holes.

Eugene Loring's choreography in the "Marry Me" number in *Yolanda and the Thief* continually plays off a set of naturalistic moves – walking, staggering, struggling to escape, and other comic business. Often the transition from naturalism to dance is impossible to pinpoint. Loring himself appears with the group of ladies, gents, and jockeys dressed for the races; he plays a sort of puppetmaster, and his moves are a synthesis of naturalism and dance, so smooth and underplayed as hardly to seem a dance at all, wonderfully arch in its reflection of the motif of "pulling the strings," manipulating the victim (and getting paid for it). The movements in and out of dance – if the notion "out of dance" be allowed here — are even subtler in "Limehouse Blues" (*Ziegfeld Follies*); the choreographic accentuation of the music is extraordinarily varied, mimetic, and everywhere precise (even when off the beat). In the scenes on the street, where Loring appears as the Costermonger, it is as if the actions remain naturalistic and *at the same time* articulate the music. At other points, as when Astaire trails Bremer on the street, he dancing and she walking and window shopping, there is a distinct counterpoint of the danced and the natural movement, or of dream and waking life. The concluding scene, in the shop, begins entirely naturalistically, but with the dropping of the fan (key motif) there is a sudden, almost imperceptible shift into dance: the movements of the actors, of their shadows, of the camera, even of the smoke in the air, all work together in rhythm with the song – or rather songs, for the musical texture itself is complicated by melodic superimpositions and dissolves, injecting a fine dissonance into this simple tale of old Chinatown.

In that post-war Hollywood parable, *It's a Wonderful Life*, the dream sequence, the "spell," portends a rude awakening from the dream (of small town life) – suggesting that no binding relation is real except the relation to the angel, and even he is gone the moment you call on him; that community is born only to be sabotaged and the good man (at the window of Potter's office, at the end, yelling "Merry Christmas" with his arms outspread) crucified; and that in this potter's field, before the wall of

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snow, everyone is a stranger – and having accepted all this, his full powers of hearing restored for one moment of his adulthood, George Bailey returns to ordinary life as a child for whom *money* is entirely unreal: that is the true bail. — At heart a desperate film, intent on or trapped into concealing its despair about America, indeed sugar-coating it.

The best thing about *The Quiet One* is Helen Levitt's documentary photography, especially the scenes of streetlife so reminiscent of her gritty wondrous still photographs. Agee's spare and keen commentary is peculiarly detached from the action, though the final words of hope in view of the infinite corridors of despair that make up Harlem are fully attuned to the visual music. The story of the boy, presented as a "case study" with a studied avoidance of sentimentality and easy solutions, is, for all the naturalness of the performances (intercut with documentary footage), a bit contrived in its very typicality, and strikes one as dated in comparison to the fleeting revelations of some of those street scenes.

The Asphalt Jungle sets a standard for film noir.

Sunset Boulevard is so fully realized that it's hard to say what it's about. On the one hand, it is an ironic modernist transfiguration of screwball comedy, and, on the other hand, it is a consciously "archaic," operatic descent into Sternbergian décor, the Sternberg grotesque. (Dreier and Seitz are the overt links to Sternberg.) The eternal feminine, woman as principle of chaotic-redemptive vitality, puts on the tragicomic death mask and, mesmerized by a dream past turned nightmare, dances undaunted – sovereign and pathetic – into "the dark" of the camera eye.

"Miss du Bois?" Magic words. As she lies there on the floor of Stanley Kowalski's tenement apartment, held down by a female attendant of the insane asylum to which she's headed, humiliated, shattered, and reduced, she looks up into the monstrously ugly, deathlike countenance and smiles sweetly. His courteous address, his gallant arm, and she is his, is herself again, just passing through in all her disruptive, ridiculous, and faintly tragic singularity, before the commonplace reasserts itself. Blanche du Bois lives in a dream world compounded of fantasy and memory, but she knows what's what. On the other hand, gentle Stella cannot recognize the monstrous, refuses to believe her husband capable of it, and so puts her crazy sad sister away – after Stanley has brutally and systematically destroyed the invader.

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At the end of *Baby Doll*, the child wife walks through the littered yard of the derelict mansion Archie Lee has bought her, with his whiskey bottles hidden in the few remaining pieces of her furniture, with gaping holes in the walls through which he spies on her, and animals everywhere, and with Archie Lee himself handcuffed and about to be carted off by the sleazy town marshal for going berserk at the sight of her carrying on with the "foreigner," the wily "wop" Vaccaro, new man in the Old South, a man who gets what he wants, and more, and who in revenge for willful arson, as he keeps pointing out, has possessed himself of everything Archie Lee has left, including his wife and his cook, Aunt Rose Comfort. "Today's my Baby Doll's birthday," Archie Lee says in a subdued voice edged with bitterness, as she slowly walks past, ignoring him, her musing face partially lit in the shifting chiaroscuro. Midnight bells have just sounded the end of a long fall day, the day before her twentieth birthday — harsh and intermittently stormy, peppered with falling leaves everywhere. Amid the general wreckage of her marriage and household, she has come of age. In the brief final sequence, she affirms her solidarity with her pathetic, half-senile, but dignified old aunt in the face of all those unscrupulous men. This festive nihilistic comedy (condemned by the Legion of Decency on its release) ultimately sides with the victims.

The shots of frail Aunt Rose in the empty front hall toward the film's end, with the front door wide open to the night, and the tattered leaves blowing across the threshold, lend an unearthly quality to the acutely class-conscious social realism. There is of course a precedent for this in the literature of the American South.

Mizoguchi is a great master of the movie ending. And nowhere is this more evident than in *Yokihi* (Princess Yang Kwei-Fei), where, after the magical transition to the final sequence shot – actually a burn out to whiteness, from which the final shot burns in, registering the passage of many years – the tears turn into ghostly laughter. The incantatory dialogue of the two souls counterpoints the subtle movement of the camera through the dying emperor's room, past the still statue of the beloved, the hangings, the furniture, the gleaming objects all still as death, toward the passage at the other end of the room, where suddenly things are in motion: the curtains are billowing, leaves are falling and scuttling across the floor, and we are drawn with this wind, with the rising waves of

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laughter, into the luminous threshold as the film ends. The final shot is a good example of Deleuze's point about Mizoguchi's lateral movement, "which creates the space instead of presupposing it."

As Ricci pursues the old man through the mission, in the middle of *The Bicycle Thief*, he and little Bruno pass by the central aisle with the two priests in pursuit of *them*. The two brothers pause to kneel before the altar, Bruno pauses likewise and kneels, but Ricci tears by heedless. What are we to make of this? It is part of a pattern, of course, the pattern of Ricci's neglect – neglect of his wife carrying the buckets at the beginning, of his son throughout the day, and now of Jesus and all he stands for. Antonio Ricci is so desperate to earn a living that he forgets – or nearly forgets – about living. (In his apartment with his wife, in the restaurant for a moment with Bruno, and finally at the end in his shame and grief, he comes alive as a man.) The visit to the fortuneteller brings back the image of the cross and the idea of the moment – "subito," now or not at all – the idea of readiness. What the fortuneteller says is confirmed shortly afterward on the street: the thief appears *now*. Is it Ricci's failure to live in this "now" – a failure for which capitalist society, presumably, is ultimately responsible – that is signaled by his forgetting to kneel in the mission church? Is Bruno the child therefore to be considered closer to Jesus, to faith ("Fides" is the brand name of the stolen bike), to forgiveness? It is the presence of the child that saves his father (from prison). To be sure, the film never shows its cards, never discourses outright. We laugh at Bruno's hasty kneeling, and the mission establishment is shown to be at least as worldly as the well organized charlatan who dispenses "spiritual" advice. Ricci's not bothering to kneel is a comment on the church's irrelevance. Neither social reform nor philanthropy is the answer, we surmise. There is no justice and there is no remedy in the world of this film. There is hope perhaps – but only in the full experience of desolation. It is something no less sociological than theological. Which points to the largely unnoticed mystical strain in this neorealist classic.

The image of the child – of children – dominates the ending of *Umberto D* as well, where there is another redemption in despair, another opening of the "now" beyond the crushing burdens of the city, with its implacable facades and internal disintegration. But the image of the child is not integrated into the main action of *Umberto D*, as it is in the earlier film; and the sober and rigorous sociology that frames that action is missing

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from the ending – which is *merely* theological. The scene in the park at the end is wholly absorbed into metaphor. Or nearly so: the wave of children expresses the joy of the old man in playing with the little dog whose trust (*fides*) he has regained – the joy released, by a dialectical reversal, from the experience of near suicide. The revelation, in other words, is grounded psychologically, in the character's emotions, and the metaphorical is grounded in the documentary.

The danger with DeSica and Zavattini – and it is a danger incurred by a host of modern filmmakers following in their steps – is that despair will become abstract, become merely a gesture, an ideology. Witness *Miracle in Milan.*

In his notes on "cinematography" (as opposed to "cinema," i.e., photographed theater), Bresson has provided hints for an appreciation of his highly original concept of action in *Diary of a Country Priest.* He speaks of a kind of drama that depends on the "march" of non-dramatic elements, which is to say, the "visible parlance" of faces, bodies, objects, houses, roads, trees, fields – these elements drawn together in a rigorous dynamic of "currents and cross-currents," as in a Cézanne. Such drama involves the generation of emotion by means of the resistance to emotion – a resistance allied to the powers of silence, stillness, blankness. He speaks of inner movements that are seen (the formula is worthy of Dreyer), and of something necessarily ineffable in the images, something that again resists expression. It is "necessity," not beauty, he strives for, the necessity residing in the "automatism" of ordinary life, in those unconscious or half-conscious gestures and actions that reveal far more than do deliberate actions. Accordingly, the scenes in this drama will be oriented not toward information, let alone grand discovery, but toward "divination." Each passage in the action should intimate some withheld revelation. To be sure, the "wonderful little priest" makes his discoveries. He works his way into the dark corners of his parish, all of them full of malice, and learns the lessons of futility. But he also learns, courtesy of his own agonizing death, that all is grace. It is a matter of the proper perspective, or rather the gift of detachment from "the proper," from the world of the living — for in "God's world" the living and the dead are as one. Thus his joy and his mourning are inseparable: this is what he communicates to the countess who, in a central scene, is suddenly able to accept the loss of her long-dead child. The priest himself gains perspective in writing his diary, an activity to which we are privy in the remarkable sequences that form the backbone of the film –

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sequences of inscription in audio-visual relay (the words being written on the page that appears on the screen are simultaneously spoken by the priest in voice-over). These spectral images of writing trace the ineffable meaning of the drama, of the passion, at issue in this film text. The film is the diary writ large, its action a living scripture.

There is something unconvincing about the ending of *Mouchette* – something arbitrary. Why could she not have been the sort to bear it out? She is a brave girl, and devoted; all the little protests she sounds against the degrading environment she lives in testify to resilience. So why wrap herself in her mother's shroud and roll into the water? Because she is The Victim: "Mouchette . . . is found everywhere," explains the director, "in wars, concentration camps, torture chambers. . . . " No less than Godard (who, in other respects, seems his cinematic antithesis), Bresson has a message to send. Of course, the ending is carefully prepared by everything that comes before it – the tightening snare of the milieu (not unlike the lowlife milieus in *Coeur fidèle*), the systematic exclusion effected by the people and institutions of her community, the murderousness in the air. With the death of The Mother, it is made clear, all hope and care are gone. But it is precisely in this formal closure, by which the ending is supposed to feel predetermined *rather than* arbitrary, that the film's tendentiousness emerges. Teenagers choose suicide often enough, and frequently on grounds far less cogent than those presented here, but the ending turns it back on probability as a principle of character in order to make a political statement. What Bresson likes to call "the life of the film" is thereby compromised. — Compared to Satyajit Ray's *The Postmaster*, *Mouchette* seems hysterical.

L'Argent too: the action is hypnotic in its power of immediacy, but the logic of the plot obeys a simplistic equation of despair. Having been unjustly branded a criminal, Yvon becomes one for real: the victim, once again, of a bad world. Having lost his job, child, and wife, he steals money and kills a family. And then gives himself up to the society that first taught him to transgress – for there is no escape any more. Everything follows with iron necessity from his eventual conviction and imprisonment for being accomplice to a robbery; but, given his love for wife and child, given his pride, why should he have agreed to participate in the first place? The question is not seriously entertained in the film (as it is in Dostoevsky, Zola, or Dreiser). There is no time for questions in the rush

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to indict the world. The blankness of the protagonist in this case signals the abdication of thinking. A certain lobotomized sensationalism prevails.

Kurosawa is the most high-minded of directors. His thematic tendency (the restoration of faith in humanity, the indictment of poverty, etc.) is related to this. Although more refined in sensibility and far less theatrical, he nevertheless recalls the didactic Abel Gance in some respects. Even more, he recalls the didactic John Ford.

The night-on-the-town sequences in *Ikiru* are memorable for their brilliantly textured mise en scène – Kurosawa is practically unrivaled in his treatment of that fundamental cinematic subject, the life of the streets – but the film's ending is weak literarily. The image of the dying man on the swing swinging is too pat, too far removed from the horror of death evoked in the waiting room of the doctor's office at the beginning. The comparison with *Ivan Ilych* implicit throughout the film completely breaks down at this point.

Mifune's performance in *The Idiot* ranges over an unprecedented emotional gamut; it is a beautifully controlled descent into madness. Had such noble virility appeared on the screen since Seastrom's outlaw? And where else in the most intimate communication, as it is at the film's end, with the whooping and hopping hanswurst?[3] Ultimately, with the catatonic.

Satyajit Ray absorbed the lessons of De Sica and Renoir – lessons about structuring a narrative according to patterns of daily life – and the example of their rich and harsh humanity, but he was in some ways a greater poet than either De Sica or Renoir. That is, he was more of a thinker, and his imagery, camera movement, have a metaphysical resonance, in addition to a beautiful rhythm, lucidity, and honesty. This is already fully apparent in *Pather Panchali*, as, for example, in the scene at the end when little Apu destroys the evidence of his dead sister's crime by throwing the stolen beads into the pond: the ruckus itself is long forgotten among his relations and neighbors, and it is only he, Apu, who will remember it. The image of the weedy water's swallowing up the coveted ornament becomes the seal of his memorializing of his sister Durga, that reckless and tender force of life. For the agitated surface of the present

3. One thinks here of James Dean as well.

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does not entirely close over the object from the past; through the weeds, as we see at the end of the shot, is an eye-like opening into the depths.

The figure of the old aunt in *Pather Panchali* has an almost Shakespearean grandeur and poignancy.

The ending of *L'Avventura* creatively cites the ending of *The Bicycle Thief*: the forgiving consoling hand. And throughout, in his whole approach to storytelling, Antonioni takes up De Sica's methods. Place exerts its mesmerizing effect on the characters and the action, which unfolds at its own pace, but always subject to the gravitational pull of an absence (a stolen bicycle, a missing girl), taking the form of a (futile) search that turns inward. For at the end, after all the divagations and the fleeting respites (lunch in the restaurant, clowning in the hotel room), the two pairs are reunited in their guilt and anguish. The woman and the child are *witness* to the man's transgression and remorse.

Of course, the chief witness is Anna herself, especially after she has vanished from the party. Her gaze on the lovers is felt everywhere – from housefronts, passing trains, windows and walls in hotel rooms, deserted squares – usually at a distance. But sometimes she is right there in bed with them, freezing their love with the question "Why?" that they bandy back and forth – her question, inescapable. It is as if after she disappears from the action, her gaze becomes one with that of the camera.

A Taste of Honey is a keen and immensely gentle film, full of somber festivity. It looks the blankness right in the face, without getting particularly riled or losing its sense of the continuity of life. With the return of the mother, the prosaic realism, never far removed from the spirit of humor, assumes a mythic magnificence – and without any corn about "growing up." Shelagh Delaney's apolitical script is perfectly harmonized with Richardson's and Lassally's politically drenched visualization. Perhaps the only real weakness is in the recurrent motif of children singing and playing, which seems forced, or precious, but which is also, as an expression of playfulness and renewal, a characteristic detail, and the signature of an epoch (the Sixties), even though derived from *Umberto D.*

A chronicle of the counterculture. In *Saturday Night and Sunday Morning*, the alienated (anti-)hero grudgingly conforms, having sown his wild

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oats. In *The Loneliness of the Long-Distance Runner*, he protests against police mentality, victorious in defeat. In *Billy Liar*, he impotently seeks to reconcile bourgeois reality with his dreams. And in *Morgan!* he gives up on society and, driven crazy, drops out, not without leaving offspring.

Lolita is a study in hipness. Those Ohioans, those Americans (they're *all* middle Americans) are so unhip, so vulgar and inelegant. The dramatic interest of the film is in the slow but inevitable degradation of the paragon of elegance – Mason's "sincerity" makes it all the more exquisite – as he "falls in love." He then outdoes the Americans in vulgarity: the vulgarity of jealousy and possessiveness, the vulgarity of schemes of deception, the vulgarity of murder and revenge. And at every step of the way, he is goaded by the devil of hipness in the persons of Quilty and Darkbloom, who are all style, all labyrinthine mask. Their little dance at the beginning, her very look, are a parodic – that is, hip – evocation of the hip (as a cultural type).

The musical score sets the machinations of destructive passion into the framework of kitsch, while the names of the characters and places work to demean the action. It's like a constant put-down. Over and above the wonderfully detailed performances, the film is always winking at the audience: "Are you hip?"

When Guido comes to the mirror, toward the beginning of *Eight and a Half*, we see a haggard-looking man – seedy, flybitten, almost doltish in his satanic brooding – who struggles to wake up from his dreams but can only relive them, waking *to* the nightmare. It is a riveting portrait of the artist before the merciless-merciful mirror of art. But after the opening scene, this abject quality is suppressed, and in its place comes long-suffering ironic nobility, the director as hero. To be sure, there is still a clownish aspect to this elegant man, but it is the tragic clown, a little like Alceste, who also feels put upon, finds everyone a bore, runs from them, but needs them more than he likes to admit. And after all, what's so special about being unable to love? Of course, the film really considers its hero's love, in its tender and wry acceptance of everything, to be as far above that of the colorful crowd as, say, Citizen Kane's love is above that of his second wife. All too Wagnerian, in either case.

The figure of the chattering critic – the whole hackneyed thematic concern with "belief," "meaninglessness," "authenticity" – merely

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betrays the film's own academicism in the midst of all that vitality. It is very earnestly "existentialist." The coy aesthetic self-reflexiveness follows from this.

A little like *Wild Strawberries*, the film is organized in terms of the people in Guido's life, his encounters with them – in the main, his failures and betrayals. All the hallucinatory memory- and dream-interpolations have at their center some beloved person or persons. These encounters form a constellation, which is the inconspicuous structure of the film. The sad festive ending renders this as a dance of death, lays out the string of relations like a cherished necklace on a moving display, each jewel a priceless souvenir of his love and remorse, each for a moment highlighted in the memory-laden perception of the artist, who has finally conquered and redeemed the unhealed hopeless world, the hopelessness in himself, by reflecting it in his magic mirror, simultaneously remaining true to the dreaming child within him, the wondering spectator and star attraction at a circus.

Whereas Cabiria's tearful joy, at the end of Fellini's earlier film, springs from her indomitable character and her feeling of gratitude to be alive, so that the smallest sign of friendliness seems a miracle, Guido's transcendence of despair is philosophical-aesthetic: he solves the problem of how to make the film by embracing the chaos rather than trying to escape it. He makes the film of his life, the film we are seeing, document and artwork in one. The movie set is finally presented as such, as bare apparatus, at once "messy reality" and "pure symbol."

At the end of *Cold Comfort Farm*, this unheralded gem of film humor, there is an elegiac note for the passing of all that appalling barbarity – victim of the "tidying up," the organizational skills of our winsome heroine. The modern woman in all her conveyances (motor car, railway, aeroplane) is set against the fierce archaic mother grieving before the shrine of her wandering son. Being modern ourselves, we laugh at the mother's lamentations – or, more precisely, at the candle-lit shrine – but, despite the squawking geese in the background, her sorrow ultimately seems more real than her reformation.

The old Adam is the only member of the household who does not change, any more than twigs or cows do, but he does enter the modern world, moving with his beloved herd from the gloomy Elizabethan cottage, with its

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twisted and morbid obsessions, to the natty Restoration-style mansion.

Compare *Cold Comfort Farm* to another cinematic *jeu* by a master at the end of his career: *Same Old Song* – the one very English as the other is very French, but both making serene satirical use of popular traditions as, with an unerring instinct and a light touch, they weave together multiple plot lines (representing the variegated strata of an evolving social milieu) like a technological Prospero.

Schlesinger's great subject, like Stroheim's and Pabst's, is decadence. The purest example is of course *Day of the Locust*, that ultra-refined foray into grossness of all kinds. The humanity in evidence in Schlesinger's earlier and later films is here systematically debarred and reduced, and each scene is carefully designed to expose some major or minor outrage. Story, character, and theme – the moral, psychological, and political inquiries into corruption, repression, mass hysteria – all recede before the orchestration of dissolution, the masquerade of apocalypse.

Great film-making does not necessarily result in a great film: witness David Lynch's *Lost Highway.* His carefully distilled rhapsodic savagery – he is the Lautréamont of American film — leaves no space or time for thought. With its absence of "character" in the conventional sense (the "story" is linked mainly by the motif of doubles and of observation), the film has the depth and meaninglessness, the arbitrariness and inevitability, of a dream.

One thinks of the aestheticism of French films of the Twenties: the visual deformations in *Eldorado*, the layers of road unrolling in *L'Inhumaine*, the paralyzed durations in *La Chute de la maison Usher.* But also of the German aesthetic of humiliation and degradation.

Lynch's mastery of montage – as more or less distinguished from mimesis – extends to the vertical: the counterpoint of sight and sound. He is not just the most authentically "painterly" of contemporary American directors but also the most "musical." Which is to say, the most purely "cinematic."

The Elephant Man makes us wait before showing us the monster, thus participating – quite knowingly – in the exhibitionism that kills him. He

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participates in it himself: the violent orgy in his room is immediately preceded, and as though brought on, by the monster's display of vanity, his reveling in his new toilet articles in a crooked little dance of joy. At heart, he's a dandy. — Of course, he's also a saint, suspended between heaven and hell, soul and body, delicacy and brutality. Such beauty in grotesquerie is an expression of the film's medievalism, its gothicism (complete with devils and hellfire). The element of camp, which Lynch so readily indulges elsewhere, and which could easily have overwhelmed this film, is kept down throughout; the many tears are never mocked at. Only in the theater scene at the end, the heavenly representation of hell (the "dungeon") on earth, is the campiness in evidence on the stage – necessarily so. Like any child, the monster is delighted by the procession of monsters. After his triumph in the theater, and with his mother's voice – which is the voice of the clouds and wind and stars – in his ear, he can finally lay himself down to sleep, his maidenly soul unstained by all the violations.

We do not so much see as feel the background, says Dreyer – a marvelous and very important formulation. For it indicates that film is not just what is called a visual medium.

And it is not simply that the element of story involves our emotions, memories, and imagination, so that our perception is at every moment embedded in a shifting context of psycho-physiological impressions. It is also that our perception of space itself — or spacetime (for in film, more conspicuously than elsewhere, space is always in motion) — is an embodied perception, is part of the body of space perceived. Articulated by light and shadow, by varying shapes and hues, the depths of space and its surfaces resonate; the world of things is alive. Film reality, as Jean Epstein puts it, is animistic.

Another critical point made by Dreyer: atmosphere conditions the perception of action. Insofar as place is evoked, there will be some degree of atmosphere. Again, atmosphere and place, in film, are themselves dynamic – more precisely, rhythmic – expressions of a fundamental spatiotemporal action and structuration, a bodily configured spacetime. For the perception of space in time is sensuous, physiological, without being confined to any particular sense. This means that, in an "atmospheric" film, the imagery bears a considerable subliminal weight or momentum.

The possibility of rhythm without atmosphere: Resnais. An unpsychological way of seeing.

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Burch's point (in *Life to Those Shadows*) is that the articulation of space in the film image is grounded, centered in the body of the viewer (identified with that of the film's director), in his sense of left and right, front and back, etc. It is grounded, let us say, in a *possible* body.

What is cinematic has to do with the penetration and articulation of space. That is, with a manifold unfolding spacetime, the constellation of sequences. A movie is more or less cinematic.

(Kazan's films are intelligent and pictorially impressive from the beginning, but they only gradually become cinematic.)

The element of stillness, standstill, in film imagery. Motion *picture*. Here is perhaps the possibility of film's aura.

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High/Low and the Discourse of "Anti"

Ralph Shain

— But Dieter, why did you send your pet monkey Klaus into outer space?
— Because *art* is *dead.*
Sprockets, Saturday Night Live

1

In their dispute over the demands of 'the politics of art," whereas Benjamin argued that the key determinant is technological change, Adorno saw the key issue as the split between high art and low. "Both [the highest and the lowest] are torn halves of an integral freedom, to which however, they do not add up."[1] This idea is repeated in, and guides, Adorno's published response to Benjamin.[2]

2

Without following Adorno's theory, I intend to use this idea—that the key to understanding critical discourse about art involves the high/low distinction as central, but also *as halves which do not add up*—to establish a framework for thinking about discourse about art. To the extent that this discourse helps us think about art, this reflection on this framework will help us to do so as well. But my key theme will be the elaboration of one reason why such discourse fails to help us to think about art.

3

Perhaps Benjamin was right, that technological change has killed art's aura, but if so it is doing so over quite an extended historical period, indeed

1. Theodor W. Adorno, "Letter to Benjamin" in *Aesthetics and Politics* (New York: Verso, 1997), p. 123.

2. Theodor W. Adorno, "On the Fetish Character in Music and the Regression of Listening," in *The Culture Industry* (New York: Routledge, 1991), pp. 34-5.

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over that long run of which Keynes spoke. If already dead, the aura has certainly been and remains an extraordinarily vigorous and animated cadaver. While waiting for it to quiet down, let's take our cue from Adorno's thought.

4

We can, however, note those concepts which Benjamin names at the beginning of his essay as outmoded, since these give us a start in terms of thinking the high: creativity, genius, eternal value, mystery.[3] These concepts are part of the model of art according to what I will call the traditional aesthetic. Elaborating this list, we might come up with the following: beauty, expression, creativity, genius, individual, mastery, form, harmony, contemplation, eternal, useless.

5

According to this model, art and its producer, the artist, are placed above the receiver. The artist is conceived of as a creative genius, working alone, whose work is an expression of genius and a product of mastery of materials. The work of art creates transcendent experience in the receiver: a contemplation of eternal beauty.

6

The basic ideas behind this model are clear, although some footnotes are in order. 'Sublime' and 'interesting' have been added to beauty as the highest standard of the work. The former does nothing to shake the basic model, since it is an exalted state, and the term 'beauty' was so elastic as to be a mere placeholder for 'highest aesthetic value.'

7

Lutz Koepnick assigns a division of labor to the concepts of the beautiful and the sublime. According to Koepnik, "In contrast to the totalizing thrust of the beautiful, sublime art interrupts the false totality of art. Sublimity derives as principles of discontinuity, rupture, and surprise, and remind us of the limitation of representation and instrumental rationality.'[4] This distinction, although analytically neat, fails to treat with any specificity the history of twentieth century art. Once such specificity is examined, I think it will be clear that the main achievement of this view is to make the term 'sublime' as elastic as 'beauty.' A different interpretation of the contemporary discourse of negation—interruption, discontinuity, rupture—will be provided below. (75 et seq.)

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3. Walter Benjamin, "The Work of Art in the Age of Mechanical Reproduction" in *Illuminations* (New York: Schocken, 1978), p. 218.

4. Lutz Koepnick, *Walter Benjamin and the Aesthetics of Power* (Lincoln: University of Nebraska Press, 1999), p. 77.

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8

The concept of 'the interesting' is not exalted enough to sustain the traditional model on its own. It is a sign of trouble for the traditional model, but it is safe as long as it is supplemented by 'beauty' and/or 'sublimity.' The periodic returns of 'beauty' are such scamperings to safety.

9

We may wish to be a bit more up-to-date in our metaphysics and substitute 'enduring' for 'eternal.' Similarly, 'transcendent' may be moderated to 'profound' or 'qualitatively superior.' This changes nothing of significance.

10

Philosophical arguments which arise within the field of aesthetics generally turn on whether one or more of these concepts is fundamental, how they are related to each other, whether they can be defined, and what accounts for the exalted state. I am not here going to involve myself in these sorts of disputes.

11

In noting that the artwork, as an expression of creative genius is always placed above the receiver, we note that hierarchy is built into the model. And the model, with its corresponding hierarchical aspects, is so pervasive that the words 'art' and 'aesthetic' carry this hierarchical aspect within them. The term 'high art' is a pleonasm; 'low art' is more than a little paradoxical. Thus the contrast to 'high art' is more readily expressed by the phrases 'low culture,' 'mass culture,' 'popular culture.'

12

That 'art' is a term of valorization can be readily seen in the question "is it art?", the sorts of things about which it is asked, and the kinds of arguments to which it gives rise.

13

It is easy to forget that low art—or rather, popular culture, if you prefer—has its theory as well. It is easy to forget because low culture's exclusion from the meaning of the word 'art' leads to its seeming irrelevance in theoretical explorations which start off from the question 'what is art' or 'what is aesthetic experience.' In addition, art critics are almost exclusively those inspired by exalted artworks. No matter how much they wish to challenge the traditional model, they are temperamentally incapable of doing so. Furthermore, those who judge according to the low culture model are reluctant to admit it because of the hegemony of the dominant model—what Bourdieu calls "cultural goodwill."[5]

5. Pierre Bourdieu, *Distinction* (Cambridge: Harvard, 1984), p. 318.

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14

When will art theorists come to terms with "Sprockets" (that's pronounced *Sh*prockets) and "Bob the Young Artist"?

15

One needs to look at a sociological theory, like Bourdieu's, to find a theorist giving the popular aesthetic serious consideration.[6]

16

The low culture view judges cultural productions according to entirely different standards from the 'high art' model, and provides an alternative model. This model consists of a thoroughgoing rejection of everything about the traditional aesthetic, including the terms it uses (and common usage accepts) for labeling the views at issue. It objects to being denigrated as 'low culture,' as well as to having the words 'art' and 'aesthetic' carry meanings which exclude it. These exclusions are pure snobbery, according to this model, and it would label the traditional view, the 'snob' or 'elitist' view.

17

To speak of the high/low distinction is already to have chosen sides because the very existence of the distinction is contested.

18

There are no value-neutral terms for labeling or discussing these models. Nor is there a neutral position—we are all implicated in this conflict. As Bourdieu says, "Taste classifies, and it classifies the classifier."[7]

19

The 'popular aesthetic'—I use this term precisely because of its paradoxical element—places the judgment of the receiver higher than that of the artist/producer. Its highest value is entertainment, which it recognizes is produced by talent (not genius). Against creativity, it values consumption; against form, content; against the eternal, the recognizable; against contemplation, enjoyment.

20

According to the popular aesthetic, the snob theory (as it might like to call it) is a sham. Its claims that its preferred products provide transcendent experiences are entirely fraudulent. These experiences are either nonexistent, the product of either self-delusion or an elaborate joke at the expense of regular folk, or they are merely pleasures of the same sort

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6. The key works on art are *Distinction*, *The Field of Cultural Production*, *The Rules of Art*. Of the works which provide Bourdieu's general theory of society, I prefer *The Logic of Practice*.

7. Bourdieu, *Distinction*, *op. cit.*, p. 6.

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which might be experienced in the enjoyment of any cultural product, such as "Survivor" or "anime" or "General Hospital," only here experienced by over-educated, pretentious masochists. To each their own pleasure.

21

The best that the traditional aesthetic can do is point out that aesthetic experience is more complex, profound, deep, and sophisticated than the experience of popular entertainment. What it cannot do, assuming that one accepts this claim, is establish the superiority of complex pleasures over simple ones, or deep over superficial. Nor can it erase the connotation of class pretension from the word 'sophistication,' which embarrasses the argument.

22

No advances have been made in this argument since John Stuart Mill argued that higher culture is qualitatively superior to lower. It's about time that we admit that, just as there is no value-neutral way of labeling these two models of cultural judgment, we have as yet no question-begging way of demonstrating the correctness of one or the other.

23

The popular aesthetic is also unable to establish the correctness of its position because it cannot prove that people have not had transcendent or qualitatively superior experiences from reading Beckett or looking at Pollock.

24

Here is how this problem arises in Bourdieu's work. Bourdieu aims to demystify traditional aesthetic claims by showing how cultural products play a role in strategies of distinction whereby symbolic power is garnered and symbolic violence is perpetrated on the dominated segments of society. He claims, in line with this project of demystification, that there is no aesthetic value to a work underlying the struggles in the cultural field which surround the work. The value of the work is a fiction produced by the social magic generated in the struggles in the field of cultural production.[8]

25

Certain aspects of Bourdieu's demystification strike home. He clearly shows, in extensive detail, that art is a stake in social hierarchy. In addition, he adequately shows that the claims of the traditional aesthetic to be founded in an individual's nature, e.g., that aesthetic taste or genius is

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8. Remarkably, Bourdieu denied as "reductivist" this seemingly straightforward reading of his work. He claimed that he was explaining, but not explaining away aesthetic value. See the "Preface" to *The Rules of Art* and the interview "The Intellectual Field: A World Apart" in *In Other Words* (Stanford: Stanford University Press, 1990) pp. 142-3. Dealing with these ambivalences is outside the scope of this paper.

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natural, are false. But these two points, important as they are, are not sufficient to disprove the existence of aesthetic value.

26

Showing that artwork is a stake in social hierarchy cannot establish that it is nothing more than such a stake. And Bourdieu overestimates the significance of the claim that aesthetic judgment is natural. Claims to natural distinction of course work better for elites, but they can get by as well with other claims to distinction, such as effort or education. What Bourdieu shows is that aesthetic taste depends on long familiarity with works of art, usually going back to early childhood. Intimate familiarity, depending as it does on family wealth (ownership) and/or education (museum visits), can also work as an explicit basis for taste in the traditional model. It can do so because this intimate familiarity is not easily or readily obtainable. A 'second nature' works just as well as a first, when there is no first to diminish it.

27

What Bourdieu does not show is that, through this long training, one does not acquire a genuine skill.

28

According to Bourdieu, understanding works of art is not a function of nature, but rather requires large investments of time available only to those who are moneyed:

> As this restricted language [literary language] is produced and reproduced in accordance with social relations dominated by the quest for distinction, its use obeys what one might term 'the gratuitousness principle.' Its manipulation demands the almost reflexive knowledge of schemes of expression which are transmitted by an education explicitly aimed at inculcating the allegedly appropriate categories.[9]

Artworks are 'esoteric' among other reasons,

> because their complex structure continually implies tacit reference to the entire history of previous structures, and is accessible only to those who possess practical or theoretical mastery of a refined code, of successive codes, and of the code of these codes.[10]

Advantages of family money—above all, the time which comes from having family money—continues beyond education to the aspiring artist's entry into the field:

9. Bourdieu, *Field of Cultural Production*, *op. cit.*, p. 119
10. *Ibid.*, p. 120.

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> Those who do manage to stay in the risky positions long enough to receive the symbolic profit they can bring are indeed mainly drawn from the most privileged categories, who have also had the advantage of not having to devote time and energy to secondary, 'bread-and-butter' activities.[11]

These passages, which work so well to demystify claims to 'natural' distinction and 'innate' ability, suggest that aesthetic taste is a genuine ability and opens the possibility that the aesthetic experience of which it is the judge is something qualitatively superior: a genuine luxury good. Certainly it is true that there can be institutions whose training teaches nothing whatsoever, but it would be quite difficult—if possible at all—to show that art education is one of these, since it only purports to enable certain experiences.[12]

29

In spite of Bourdieu's best effort, the advocate of the popular aesthetic *is always open to that bruising bit of symbolic violence:* "Philistine!" The allegation that works have no aesthetic value is all too easily taken to be an admission of inadequacy. Bourdieu's theory invites such a reading because he, better than anyone, has explained how such attempted reversals of values can be dismissed as attempts to make a virtue of necessity.

30

In addition to their inabilities to demonstrate the correctness of their model, the high and popular aesthetics face other difficulties. Many find the high art view unsatisfying for political reasons. Not only is it elitist, but it isolates the artist from politics. Because the work of art must be complex or esoteric, it cannot be didactic, it cannot be direct or control the receiver's response. The state of aesthetic contemplation, induced in the receiver, is not in any overt way political.

31

The popular aesthetic falls prey to political worries as well. Popular culture all too often embraces hierarchies and injustice. "To each their own," seemingly egalitarian, can reinforce hierarchies by sliding into moral relativism and undermining any critique of injustice.

32

Many find themselves unable to accept the popular aesthetic on account of what I'll call the "schlock problem." Is there really no basis for the claim that Morton Feldman is superior to Yanni?

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11. *Ibid.*, p. 68.

12. In tightening this tension in Bourdieu's discussion, my aim is to make this part of his work consistent with his more general claim: that there is no neutral position for adjudicating these issues.

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33

These two views or models of cultural production judge cultural products according to completely different and mutually exclusive standards. Must one choose between them?

34

For those who say that there is no need to choose (and there seem to be a lot these days[13]), it is important to ask precisely what they mean by this.

35

Do they mean (a) that the art institution will continue to use aesthetic categories, but that these categories won't confer any symbolic capital or inflict any symbolic violence? This abstract suggestion has the makings of a Seinfeld joke: "Your work/taste shows not the slightest inkling of originality, individuality, or genius. Not that there's anything wrong with that."

36

What Robert Hughes says is not so different from this. After doing his best to debunk the "myth" of high and low, Hughes concludes:

> The task is to distinguish, without snobbery or condescension, between the good stuff, the absolute crap, and everything that lies between within each of the myriad forms that make up our cultural mosaic.[14]

Hughes thinks that we can keep our aesthetic standards but eliminate the snobbery. If this does not mean (a), then perhaps it means (b): that aesthetic categories can be used within art contexts but not outside it to distinguish high from low. The idea seems to be that there are entirely different concepts which recognize distinction within the aesthetic from those which distinguish art from mass culture. The problem would then be solved by eliminating the latter but keeping the former.

37

This is clearly not so—the same concepts are used to judge within the high as to elevate it above the low. The concepts of high culture bring with them the elitest break with popular culture.

38

This fact is generally hidden because histories and critical discussions

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13. The three that I have come across most recently are Greil Marcus, "Real Life Rocker," *Artforum* (Dec. 2003), p. 17; Hugh Kenner, *The Elsewhere Community* (New York: Oxford University Press, 2000), pp. 104, 153; Robert Hughes, "The Myths of High and Low," keynote address at the International Society for the Performing Arts (Dec. 15, 1996) (www.ispa.org/ideas/hughes.html).

14. Hughes, "The Myths of High and Low," *op. cit.*, p. 11

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of art almost always take candidates for discussion as given without the need to justify exclusions. This is just as true for *The Shock of the New* as for any other history, but we can glimpse late in the book how the same categories which are used to mark value within the field are used to elevate the entire field. Hughes praises Claes Oldenburg's "seriousness" in contrast to other artists, who are characterized as "dozens of bandwagoners" (p. 359), and uses the term 'serious' to distinguish two works by the same artist—Walter de la Mare (p. 398). He also uses the epithet "serious" to refer to the elevated status of art in general, distinguishing it from its others, business and mass media: "Art is a small thing, though an expensive one compared to the media. . . . But once it gives up its claim to seriousness, it is shot, and its essential role as an arena for free thought and unregimented feeling is lost." (p. 364)

39

There remains the possibility that we do away with the aesthetic categories; then (c) that we conceive of all cultural products as an array of offerings entirely subject to personal like or dislike. But this is precisely how the popular viewpoint views things—as entertainment or amusement. The popular aesthetic says that there is no need to choose between high and low because the distinction refers to nothing more than snobbery of the pretentious. Thus one who denies any such division as high/low would be surreptitiously siding with the popular aesthetic. They have actually made a choice, if not between high and low, then between aesthetic categories and popular categories; however, this choice is hidden by the terms of the discussion. (It does of course appear as a choice between high and low to the believers in aesthetic categories.)

40

Is there a possibility (d) where we can keep both high and low, as Hughes seems to suggest at the end of his lecture on high/low? "There's no contradiction attached to liking both Tiepolo and *Doonesbury*, both country-and-western and Mozart." (p. 11) Aside from problems in the formulation (whether contradictions arise at the level of 'likings') and the obvious revocation contained within the utterance (*Doonesbury* is supposed to legitimate the low!!?), the both/and position simply reproduces the hierarchy. As Bourdieu would note, the abstract nature of the claim is shown by the assumption that "both/and" is an option for everyone, and legitimates the low. Hughes conveniently ignores the fact that we are talking about people who have no liking for anything high and can't apply aesthetic concepts. Whereas they interpret the situation in terms of fraud and snobbery, their claim can always be seen as making a virtue of necessity. Hughes is really arguing about two

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different versions of high, but believes that he's speaking for the low.

41

It is important to remember that the aesthetic model agrees that people need both high and low cultural products. Enjoying low culture is necessary for moments—or lifetimes—of weakness and incapacity, unavoidable when one lacks the energy for engaging serious art. If these critics only mean (e) that people need high and low cultural products, they aren't denying the traditional categories.

42

Hughes fails to avoid this schema, in which the low is treated as a means and the high is granted the status as an end. He attempts to legitimize the low by showing that a large number of artists have made great art by incorporating popular materials (Apollinaire, Picasso, Dubuffet, etc.). However, "I value you as raw material to be transformed" hardly seems a promising avenue for equal respect.

43

Given mutually exclusive concepts of judging and action, one can ask according to what principle one is to decide which concepts to apply on which occasions. If one leaves it up to caprice, one has decided in favor of the popular. If one looks to an ethical or political viewpoint to resolve conflicts (e.g., 'respect' or 'justice'), then one cannot avoid the question of the legitimacy of aesthetic hierarchy. And if one, as is often done, invokes an aesthetic attitude to personality (e.g., 'unity,' 'harmony,' or 'style'), all of the same problems must be faced anew.

44

(f) Some would point to artworks which satisfy both sets of standards as a practical reconciliation of the two. Shakespeare's plays, so it is said, were enjoyed by the groundlings every bit as much as they were appreciated by those of sophisticated tastes. And some place Chaplin's films in this category.

45

One problem with this resolution is that such artists are so exceedingly rare and diverse that it is impossible to take their works as models. This category of artwork is incapable of founding a tradition.

46

It is also not clear that these works can reconcile the two models. Because of their extreme rarity, they reinforce the cult of aesthetic genius, since only the greatest geniuses, it would seem, can produce work which satisfies both sets of standards.

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47

The overwhelming number of attempts to create works which mix terms from both codes fail to meet the standards of either. Think: "Tales of Topographic Oceans," or the epithet "middlebrow."

48

The situation may be even worse for this sort of attempt to bridge the gap between the two models than these considerations suggest if Adorno's analysis of consumer society is correct. According to Adorno, the artwork must now be ascetic, since any attempts to provide pleasure—necessary for mass appeal—reinforces the consumption system which the artwork is supposed to challenge.

49

It is these political problems, more than the problems of justification, which have led many artists and theorists since the 19th century to try to articulate a new model. This approach, which one might call avant-garde, oppositional, or alternative—all meaningless terms—tries to develop a model which is politically progressive without producing schlock. Rather than reconciling the traditional and popular models, it replaces them. It thus attempts to resolve the problems facing the old models by superceding them.

50

Every serious book on surrealism begins by pointing out that the surrealists did not set out to be an art movement. They set out to change society and consciousness, and were actively opposed to having their works judged according to aesthetic standards. The significance of this point cannot be underestimated. To describe or judge surrealism according to aesthetic standards is to take sides against it.

51

Every serious book on surrealism begins by pointing out that the surrealists did not set out to be an art movement. These repetitions show how little known or accepted this point is.

52

A brief survey of surrealism will show that it developed an entirely different model of cultural production. Point for point, the concepts which articulate the surrealist endeavor differ from the traditional aesthetic and the popular aesthetic: collaboration, revelation, chance, marvelous, investigation, unconscious, juxtaposition, turmoil, anachrony, revolution, play.

53

Surrealism aimed to avoid hierarchy within cultural production by developing or inventing techniques which can be used by anyone, such as automatic writing, collage, frottage, decalcomania.

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54

As a theoretical movement, surrealism has parallels with the Frankfurt School in that both attempted to synthesize Freud with a Hegelianized Marx.

55

We can sum up the three discourses in a chart:

aesthetic : surrealism : popular
beauty : marvelous : entertainment
individual : collaboration : popularity
creation : investigation : consumption
original : unconscious : recognizable
form(al unity) : juxtaposition : content
harmony : turmoil : ease
genius/mastery : chance : talent
enduring : anachrony : ephemeral
contemplation : revolution : enjoyment

It is important to think of these as three discourses or models. As soon as we say that there are three categories, kinds, or types of cultural products, we take sides against the popular view, which denies the high/low distinction.

56

A few notes to this chart are in order. The aesthetic view privileges the individual both with regard to the producer and the receiver of art. The "unconscious" of the surrealists must be interpreted in a broad sense to include the results of "exquisite corpses" or decalcomania, which were not the product of conscious intention. "Anachrony" includes both the outmoded, which has received the most attention under this heading, and the appearance of prophecy, which fascinated many of the surrealists.

57

This chart is not supposed to be definitive. One could add more concepts or go into greater detail with regard to the concepts noted. In addition, there are a number of issues not easily summarized in chart form. But it does a good job of summarizing and contrasting the three models, and thus is helpful in thinking about art discourse. Read across, one can readily see which surrealist and popular concepts oppose and replace the aesthetic concept.

58

The chart is also not definitive in that surrealism is not the only possible model which could fit the middle position. Other possible candidates which have academic advocates include a Bakhtinian 'carnival' model, Bataille's 'alternative surrealism,' a Brechtian activist/pedagogical model,

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or a Cagean/Eastern 'total acceptance' model.[15] But surrealism was the most influential and most fully articulated model, and also the one for which it could most plausibly be expected that it would solve the political problems posed by the traditional aesthetic and popular models.

59

Nor do I think that the list of possible candidates for an alternative model is closed. If you think you can articulate a better one—go for it.

60

The chart illustrates that the problem of high/low is not a problem of genres or media, as is often thought. Theorists thus let themselves off the hook all too easily, thinking that they solve the problem by showing that a photograph or TV show can achieve the standards associated with high art. The problem of high/low is the problem of which concepts or discourse should be used in cultural assessment.

61

The surrealist model has its own problems—most notably the fact that it failed. The 'failure' of surrealism poses a lot of questions, even though these questions have been largely unasked or discussed. To the extent that they have been posed, their meaning or answers are highly contested. But what is meant here is merely that surrealism has been relegated to art history. Its works are judged by aesthetic or popular concepts; Rembrandt and Titian are not judged according to surrealist concepts.

62

To sum up, there are three ways of thinking about culture—aesthetic, alternative, popular. Each judges according to different modalities, and each is mutually exclusive of the others. A choice must be made, yet there seems to be no way to justify a choice.

63

No doubt this chart will make me appear to be one of "those who prefer their categories static..." as Varnedoe and Gopnick put it in their book *High and Low: Modern Art and Popular Culture*[16] (p. 61). In this work, they aim to "unsettle" (p. 409) the traditional positions of high and low. They hope to do so by avoiding theory, and by focusing instead on particulars. But they

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15. The most prominent advocate of Bataille's alternative surrealism is Rosalind Krauss. See especially "Photography in the Service of Surrealism" and "Corpus Delicti" in *L'Amour Fou: Photography & Surrealism*, ed. by Krauss and Livingstone (Abbeville Press/Corcoran Gallery, 1985).

16. Kirk Varnedoe and Adam Gopnick, *High & Low: Modern Art and Popular Culture* (New York: MOMA and Abrams, 1991). For a run-through of the torrent of abuse received by the exhibit, see Graham Bader, "High and Low," *Artforum* (Oct. 2004), pp. 109-110, 283.

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fail in this aim; they reproduce the standard discourse of high and low in spite of their intention. With one possible exception, the categories are just as static in their work as in any other. Varnedoe/Gopnick's book falls squarely in the high art tradition.

64

Varnedoe/Gopnick note that the basic positions "persist with monotonous regularity..." (p. 18) I agree that these positions are at an impasse, but it seems more productive to take this impasse as the starting point for theory rather than trying, as they do, to do without theory.

65

Varnedoe/Gopnick's strategy is to show how there has been widespread exchange and interchange between high art and popular culture. They can only think that this challenges the high art position, because they narrow this position to a specific conception of modernism, which they say is "usually associated with a notion of uncontaminated aesthetic elevation..." (p. 408) They attribute the stalemate in theory to a shared allegiance by the various positions to "unconscious allegiance to what some philosophers would call 'essentialism.'" (p. 408)

66

But neither Adorno nor Benjamin nor Bourdieu have essentialist, ahistorical views of art, and Varnedoe/Gopnick's work simply fails to come to grips with their arguments. In short, Varnedoe/Gopnick's argument challenges only the theory of Clement Greenberg.

67

The one point where Varnedoe/Gopnick's text suggests something different occurs in their treatment of comics. They open this section by citing Goethe's hopes that Töppfer's picture novels—comic strips—might "become a new mode of cultural reconciliation—a popular form that could make a big anonymous society feel like a family." (p. 153) They claim that "[t]he comic strip's connection to a Romantic dream of a universal language may remind us that the comic strip is in many ways not a precursor of modern art but another kind of modern art, and shares many of the same motives, forms, and dreams." (p. 153)

68

But Varnedoe/Gopnick lack the courage of their conviction, and immediately withdraw their claim that the comic strip is "another kind of modern art" by explaining it away. They elucidate the claim in two ways: first, by saying that "a handful of remarkable artists" (p. 153) have chosen comics as their medium, glossed as "a few outstanding figures who bridge

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both worlds." This exceptionalism and dualism subverts their claim. Second, they note that artists (now presumably real artists, since Ruscha is their example) who share the optimist's dream which Goethe found in comics draw on comics "for jokes, puns, and inspiration" (p. 154).

69

That artists draw on popular culture for material, content, or inspiration in no way challenges the distinction between high and low as long as it doesn't challenge the idea that the artist transforms the materials or content in producing the art. (This argument applies to Varnedoe/Gopnick's project as a whole.) If the artist is able to produce an artwork out of material which was formerly thought inappropriate for art, this merely serves as evidence of the greatness of the artist's mastery of the material, thereby confirming the genius of the artist. It extends the range of art.

70

The most insistent thread of Varnedoe/Gopnick's discourse is all too familiar. They repeatedly characterize art as difficult, complex, lofty, intense, serious. They characterize popular culture as ephemeral and pleasure-oriented. For example, in their praise of cubist painting, they say that it "has a level of complexity of pleasurable depth and difficulty, that makes its cultural achievement worthy of consideration beside that of Bach's richly contrapuntal music." (p. 46) If they wished to avoid the traditional 'static' categories, why didn't they praise cubism by comparing it to pro wrestling?

71

Varnedoe/Gopnick's work is even more retrograde than the above suggests. They use the term "imagination" (sometimes qualified as "modern imagination") only with regard to high art (which includes the 'few outstanding figures' who transcend their low media). Although they do not discuss this particular case, one is completely safe in saying that in their use of the term, "Dogs Playing Poker" does not partake of the "imagination."

72

This high art discourse runs up against popular culture discourse in the book's "Coda," where the question of theory is explicitly addressed. Their desire to avoid the stalemates of theory does not derive, they say, from a "facile subjectivism", which they rightly point out allows only power as a means of resolving disagreement. (p. 408) Citing Baudelaire, Varnedoe/Gopnick appeal to a "higher [!] critical tradition."[17] Baudelaire's contribution, according to Varnedoe/Gopnick, was to show that "this new world of reproduced things...charged the individual's habits of looking with a burden

17. It strikes me as curious that Varnedoe/Gopnick reproduce the discourse of high/low at the level of theory, while ostensibly denying it any significance at the level of art.

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of decision more complex than any ever experienced by a member of the academy." (p. 409) But on the key question—can this higher critical tradition tell us anything about the high/low hierarchy—Varnedoe/Gopnick punt:

> We live in a world where...modern art in all its intensity and popular culture in all its pleasures sustain us nearly simultaneously, and each of us has to decide for ourselves what weight or measure to give to each of these things.

We each must decide for ourselves (sc. "unaided by theory")? To my ear, notwithstanding the complexities of "higher" criticism, this sounds like facile subjectivism, incompatible with the belief that the decision carries a heavy (and complex) burden. Varnedoe/Gopnick not only reproduce the high/low hierarchy, they also reproduce the theoretical stalemates they hoped to avoid.

73

Notice the division of labor Varnedoe/Gopnick set up between art and popular culture. Popular culture is placed on the side of pleasure, while art is allotted the character of intensity. But which is more intense—looking at a Rothko, or moshing at a Black Flag concert?

74

Which sent your faculties into a whirl of free play—"Cremaster" or "Celebrity Boxing"?

75

In her response to their book, Rosalind Krauss is too generous in finding in Varnedoe/Gopnick the view of popular culture as "sites of resistance."[18] The word 'resistance' is hers, and doesn't appear in Varnedoe/Gopnick's book.[19] But her conclusion is perfectly sound: "...the very idea of high or museum culture is bracketed off from the charge of elitism by being just another one among a whole diverse group of subcultures" (p. 115). By trying to place questions of high/low on the ground of individual decision, all questions of hierarchy and symbolic violence are avoided.

76

Krauss also notes how significant it is that Varnedoe/Gopnick give short shrift to surrealism in their account while at the same time relying on the key surrealist concept of anachrony. The significance is intensified by the fact that this concept was the one which most impressed Benjamin and Adorno,

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18. Rosalind Krauss, "'Nostalgie de la Boue,'" *October* (Spring 1991), p. 115.

19. Krauss relies on a passage where Varnedoe/Gopnick say that the consumer is active, not passive. This is consistent with the stronger claim of resistance, but doesn't entail it. Consumers may actively embrace dominant culture.

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whom Varnedoe/Gopnick relegate to the dustbin of theoretical stalemate.

77

The critical discourse of our time is negative. Art works are said to question, critique, challenge, subvert, unmask, undo, transgress, overturn, dismantle, resist, exceed, negate, problematize, disrupt some concept or pair of opposed concepts in traditional art discourse. Sometimes the terms are a bit gentler: a tension is presented or displayed. Occasionally the rhetoric is ratcheted up: a concept or opposition is demolished or destroyed. But usually art is said to question, critique, challenge, negate, subvert, undermine, unmask, undo, transgress, interrupt, overturn, dismantle, problematize, resist, exceed, or disrupt. This is the way art critics, art historians, and artists talk about art. The astute reader will have noticed that none of these terms appear on the above chart.

78

These are the terms which are taken to solve problems, and carry an extra emotional charge. Art historians are jazzed to tell you how some work questions or subverts something or other. Artists are stoked to let you know that their work challenges or critiques some old thing. Art theorists are psyched to explain how art resists, disrupts, or negates.

79

These terms are not categories. Is there a difference between a questioning and a challenge? Between a subversion and an unmasking? Between a dismantling and a critique? The terms, as simply negative, lack enough content for there to be any answers to these sorts of questions.

80

These terms are systematically ambiguous as to the three types of art discourse identified above. This discourse of "anti" tells us nothing about a work because there is a questioning (critique, challenge, subversion, unmasking, problematization, undermining, undoing, transgression, overturning, dismantling, resistance, negation, exceeding, disruption) specific to each of the kinds of art discourse. (This holds whether one prefers surrealism or some other model for the middle—"alternative"—position.)

81

The critical discourse of popular culture or "distinction" is obviously anti-art, since it denies the hierarchical and judgmental categories of traditional aesthetic discourse in favor of entertainment. Thus any work of popular culture *with a good conscience* poses a challenge (critique, etc.) to high art. This qualification is not trivial since a work's bad conscience (what Bourdieu calls "cultural good will") can find it's way into the work. Consider the

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TV program "Quantum Leap," in which the main character was called "Sam Beckett." Or the trumpeting by the show's creators of the fact that the reverse sequencing used in the last episode of "Seinfeld" was taken from Pinter.

82

Surrealist works also obviously question, challenge, etc. as they pose, in an explicitly political endeavor, an entirely different set of categories as cultural standards.

83

There is also a kind of critique (challenge, etc.) specific to the traditional aesthetic, although this is more difficult to see. Artists are forced to be anti- simply by the need for originality. The questioning (critique, etc.) may target one or more of the traditional concepts, such as mastery or beauty, in order to achieve others, such as contemplation or harmony, without the former. Or the questioning, transgression, etc. may simply achieve one or more of the traditional concepts in a new way, perhaps by using one of the concepts taken from one of the other types of discourse.

84

Consider in this context the following comment of Clement Greenberg:

> The essence of modernism lies, as I see it, in the use of the characteristic methods of a discipline to criticize itself, not in order to subvert it but in order to entrench it more firmly in its area of competence.[20]

We first should note that "subversion" has lost some of its edge since Greenberg's day. But the key point is that an artwork can be critical in order to be a better artwork. This point seems to be understood better by literary critics than critics of the visual arts, as T.S. Eliot ("Tradition and the Individual Talent") and Harold Bloom (*The Anxiety of Influence*) make clear the agonistic relation between a writer and the tradition. Need I point out that there is no oppositional politics behind their claims?

85

Peter Bürger makes this point in *Theory of the Avant-garde*. The distinction in that work which has drawn the most fire is between the historical avant-garde and neo-avant-garde. Here I wish to consider the distinction behind that distinction, the distinction between two different kinds of critique: self-criticism vs. system-immanent criticism. These are poor choices for names, since both mean exactly the same thing: immanent

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20. Quoted by Robert Storr, "No Joy in Mudville" in Varnedoe and Gopnick, eds., *Modern Art and Popular Culture: Readings in High and Low* (Abrams and MOMA, 1990), p. 169.

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critique. Nevertheless, Bürger's characterization is clear. "System-immanent critique" criticizes some ideas of an institution by drawing on other ideas of the same institution. Thus it wishes to remain within but improve the institution. Self-criticism wishes to do away with the institution entirely. (It's self-criticism since the motivation comes from within the institution, but this is not essential to the critique.)

86

The former sort of critique, then, may question, critique, challenge, etc. and yet not threaten the institution at all. Critique is built into the traditional aesthetic model in two ways. First, originality is necessary to aesthetic success. Second, new approaches are necessary to induce aesthetic effects in an audience which constantly changes with rapid social and technological change.[21]

87

Questioning, critique, transgression, etc. is also necessary for an artist to create a market for his or her work and thus build a career. (This latter claim might arise in any of the three discourses, although its scope and shading will differ depending on which one generates it.)

88

There are three kinds of anti-art, undifferentiated by "anti" discourse, one of which is consonant with the traditional art institution and discourse. One function of this systematic ambiguity is that it allows artists, critics (and anyone else in the institution) to continue producing without clarifying their intentions/projects. As long as they intend to question, critique, etc., they don't need to pay too much attention as to what end. The discourse allows everyone to maintain a self-conception which purports to be oppositional, and yet the institution continues chugging along. The lack of precision is productive.

89

In his "Lecture on Dada," Tristan Tzara remarked in 1922: "What are the Beautiful, the Good, Art, Freedom? Words that have a different meaning for every individual. Words with the pretension of creating agreement among all, and that is why they are written with capital letters. Words which have not the moral value and objective force that people have grown accustomed to finding in them."[22] I have attempted to establish

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21. This would hold whether one conceives of aesthetic effects as a reinvigoration of the senses, an intensification of perception, a state of contemplation, keelhauling of the emotions across the intellect, vice versa, a free play of the faculties, or in some other way.

22. Tristan Tzara, "Lecture on Dada," in *The Dada Painters and Poets,* ed. by Robert Motherwell (Cambridge: Harvard University Press, 1981). p. 248.

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that we need to add "critique," "subversion," "questioning" and the rest of the discourse of "anti" to the list.

90

I am not saying that the oppositional self-conception of those in the artworld is hypocritical. That would require that we could say definitively that their self-conception is oppositional but that their work is not. But the ambiguity–effect means that their self-conception may or may not be oppositional. The discourse alone does not allow one to know. Even they themselves may not know.

91

Of course, hypocrisy exists in the artworld as elsewhere. But here one finds a state of mind which differs from hypocrisy in that it does not require outright dishonesty. It is rather a kind of bad faith. Like bad faith it is a refusal, although it is a refusal to face up to an ambiguity rather than a falsehood. Like bad faith, it is a refusal which allows one to avoid a decision.

92

Nor can one tell from the work alone. The traditional problem that besets attempts at political art—that art cannot be didactic—reasserts itself at the theoretical level. The artwork cannot state its own model at the risk of no longer being art.

93

This wouldn't bother someone with a definite oppositional model, such as the surrealists. Here is where unavowed investments in art as an institution surface.

94

Let us consider Molly Nesbit's article "The Rat's Ass."[23] As the lead essay in *October's* high/low issue, it has a certain iconic status for any analysis of the issues probed here. It is also significant as an excellent piece of historical scholarship which is theoretically sophisticated. Last but not least, Nesbit's essay is significant because the punch-line of her story is that "L.H.O.O.Q." is a "critique." (p. 20)

95

Nesbit begins by noting that at least two, best to call them patterns, have in their different ways governed the circulation of modern images in public. The first contained the remnants of modern state culture, which had for a long time been presented through the genre of history painting, a painting that depended upon the play between civic virtue and classical

23. Molly Nesbit, "The Rat's Ass," *October*, Spring 1991, pp. 7-20.

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beauty—what were thought to be antique ideals. By the twentieth century, state cultures put those ideals forward to serve both a fixed idea of the nation and a fixed ideal relation between classes; increasingly state cultures streamlined themselves, coalescing around a vertical ideal based on race. The other pattern, the pattern of capital, did not develop a rhetoric around ideals. Rather it replaced the ideal with desire spread out horizontally. Its business was done restlessly in a dynamic of bluster; it sought to produce new desires as often as possible, desires for physical comfort mainly—in a word for pleasure: for anything from a cool breeze to perfect love. (p. 8)

It would be premature to try to relate Nesbit's two patterns of discourse to the discursive codes I have outlined above, since she does not say what the terms of the two patterns are. Still, it would appear that her "state" discourse is related to what I have called the aesthetic, and her "capitalist" to what I have called the "popular." However this may be, I will limit myself to discussing the remainder of her account.

96

It is worth noting that Nesbit's strategy is to take the Marxist account of art and double it. Instead of positing art as a function of one power relation (capital), here it is the function of two, each of which is given some independence: capital and state. This is extremely thought-provoking, but it is unclear why Nesbit refuses to grant any autonomy to the aesthetic field, as Bourdieu does.

97

I wish to point out two gaps in Nesbit's story. On her account, the Mona Lisa passed from the "state" code to the "capitalist" code in the aftermath of its theft from the Louvre in 1911 as the image was used by advertisements in the popular press. These ads then provide the context for Nesbit's reading of Duchamp's "L.H.O.O.Q.", which according to her takes the brashness, playfulness, and disrespect for borders expressed in the ads but subtracts the commercial aspect since there is no product for sale. Nesbit reads this absence of the commercial as a political action:

> The advertisement intended to cure the very affliction it provoked. L.H.O.O.Q. named the affliction and denied the cure. Duchamp was no Rat Man. Nor was he a Freud. The cure was replaced by a **critique**. His copy would not let capital flow merrily through it. Capital was clogged, stalled by a competing, raw desire radiating from the cul. No product rushed in to relieve the sensation; nothing removed the unwanted hair. The commodity called art was equally powerless. All economies were arrested by the dada. (p. 20) (emphasis added)

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The first gap is this: in reading Duchamp's dada image as a critique of capitalism, Nesbit has left out any mention of her "state" pattern of discourse. In other words, I want to pursue the issue of the relation of the image to traditional aesthetic concepts.

98

Duchamp's brashness, playfulness, and disrespect can be interpreted as aesthetic ambition. The artist has to measure him or her self against the old masters and overcome influence anxiety. Also, it can be interpreted as an exercise of the *play drive*, which Schiller identifies with the aesthetic faculty.[24]

99

Furthermore, in the struggle for symbolic power between cultural producers and those with economic capital, as Bourdieu points out, cultural producers will show more disrespect to the "classics" as a sign that they can always produce more. They thus establish that they are producers, not merely consumers, and distinguish themselves from those whose symbolic power derives from economic capital, who tend to have stodgier taste.[25] (Of course, from the point of view of the wealthy, this strategy is only an attempt by upstarts to make a virture of necessity, since the cultural producers need to promote themselves to advance their careers, and also are unable to afford the classics.)

100

In addition, the critique of capitalism and the arresting of economies has always been part of the aesthetic code. Art must be a function of genius not commerce. According to Schiller, the work of art must lift us out of the realm of necessity, providing a momentary emancipation from power and means-ends rationality. Nesbit's claim that Dada is powerless to change things, but provides a momentary stasis which provides the space for change, reproduces Schiller's claims about art made long before Dada in *Letters on the Aesthetic Education of Man.*

101

My point is not that this interpretation is correct and that Nesbit's is not. My point is that Nesbit fails to consider the possibility that Duchamp's 'critique' may fall within aesthetic categories. Given the necessary ambiguity of the aesthetic object, one must accept that both interpretations

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24. Schiller, "Letters on the Aesthetic Education of Man," *Essays*, ed. by Hinderer and Dahlstrom (New York: Continuum, 1993), pp. 86-178.

25. This is a special case of the conflict between two groups within the dominant segment of society, those who have primarily economic capital and those who have primarily cultural capital.

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are possible. More context is needed to decide.

102

As such additional context, Nesbit brings in the manifesto which Picabia published next to a simulacrum of L.H.O.O.Q. in 391. Picabia reads Duchamp's image as anti-commercial and as sabotage of the art market. As noted above, this alone is not determinative, since the aesthetic code is always anti-commercial. But let us accept for the moment Nesbit's interpretation and see Duchamp's image as truly oppositional—that is, as occupying the middle position on my chart. Here we can ask: what sort of opposition is it?[26]

103

Here is the second gap in Nesbit's account. Nesbit provides precious little with which to answer this question, and what she does provide is inconsistent. According to Picabia, "dadas want nothing, nothing, nothing" but on Nesbit's interpretation of L.H.O.O.Q., "Capital was clogged, stalled by a competing, raw desire radiating from the *cul*." (p. 20) Desire vs. nondesire—this looks straightforwardly contradictory.

104

These two readings of dada's opposition, non-desire vs. desire, point in two different directions. Picabia's interpretation points towards a Cagean oppositional model, whereas the stress on desire points toward a surrealist interpretation, and hence towards a Duchampian surrealism.[27]

105

Nesbit's view that aesthetic critique derives from the leveling energies of capitalism contrasts nicely with Bürger's view that aesthetic critique emerges out of the anti-capitalism of aestheticism. Aestheticism, according to Bürger, is the point in the 19th century when

> Apartness from the praxis of life, which had always been the condition that characterized the way art functioned in bourgeois society, now becomes its content. (p. 48)

This contrast supports my claim that the aesthetic and the popular models each have their own anti-.

106

The ambiguity-effect hypothesized here requires modification of our

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26. The question of whether Duchamp's work is "political," as Nesbit says, is too complex to deal with here. The standard arguments are nicely summarized in Gianfranco Baruchello and Henry Martin, *Why Duchamp* (New Paltz: McPherson and Co., 1985).

27. A Duchampian surrealism has been sketched by David Joselit in *Infinite Regress—Marcel Duchamp 1910-1941* (Cambridge: MIT Press, 1998).

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account of how so much questioning, critique, transgression, undermining, subversion, challenge, unmasking, undoing, overturning, dismantling, resistance, exceeding, negating, problematizing, disruption has failed to significantly affect the artworld. We find one version of this account, in which the institution is able to appropriate and domesticate all challenges, in the following passages from Buchloh:

> Every time the avant-garde appropriates elements from the discourses of low, folk, or mass culture, it publicly denounces its own elitist isolation and the obsolescence of its inherited procedures. Ultimately each such instance of 'bridging the gap between art and life' as Robert Rauschenberg famously put it, only reaffirms the stability of the division because it remains with the context of high art. [28]

> The very procedures that had concretized notions of creative invention and individual productivity in the preceding decade [Buchloh is here talking of Rauschenberg and Warhol's reaction to abstraction and abstract expressionism] were now **negated** in the mechanical construction of the painting. Yet within the subsequent acculturation process, these works acquired a historical 'meaning' that entirely inverted their original intentions. They became the artistic masterpieces and icons of a decade that established a new viability for the procedures of painting. This occurred despite their radical **assault** on the isolation of high art, their **critique** of the rarefied, auratic status imposed on objects in acquiring exchange value, and their **denunciation** of the obsolescence of artistic constructs originating from the conditions of this isolated social practice. (p. 350) (emphases added)

Buchloh's description of the double-bind imposed on artistic practice is appealing, but it is too simplistic in its conception of artistic intention. The sides in the struggle are not always, or perhaps ever, as clear-cut as in Buchloh's account: artist vs. institution, radical intentions vs. later reappropriation. The ambiguity-effect adds additional complexity, showing how artists can maintain an ostensibly oppositional consciousness which does not preclude their complicity with the institution.

107

Buchloh's account suffers from his reliance on the discourse of 'anti'.

28. Buchloh, *Neo-Avant-garde and Culture Industry* (Cambridge: MIT Press, 2000), p. 349. Here I wish to note that, as discussed above, the appropriation of low elements also demonstrates the mastery/genius of the artist in being capable of elevating them.

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Notice the appearance of the terms "negation", "assault", and "denunciation" which I have emphasized in the quote from Buchloh just above. This example shows how the discourse of 'anti' lends itself to a romanticism of the heroic artist struggling against the impersonal institution.

108

Bürger's distinction between historic and neo-avant-gardes needs revision, as does Buchloh's criticism of Bürger. Buchloh charges Bürger with nostalgia, since Bürger allots the historic avant-gardes (Dada, surrealism, constructivism) a heroic role challenging the social order, including the status of art in that order, and striving for liberation. Artists can no longer play this role in the neo-avant-gardes: "Since now the protest of this historical avant-garde against art as an institution is accepted as *art*, the gesture of protest of the neo-avant-garde becomes inauthentic." (p. 53)

109

Although Buchloh does grant that artistic practice must change in response to the process of "acculturation," Buchloh rejects Bürger's conclusion, wishing to retain a liberatory function for certain practices in contemporary art:

> This kind of hyperopic reading of the art of the present testifies only to the traditional contempt of the academic critic for artists who continue to produce after criticism has declared either the climax or the death of the art it favors.[29]

These sorts of charges are easy to make. One can just as easily say that Buchloh's advocacy of contemporary art testifies "only" to the myopia of the critic who is too highly invested in 'art' as an ongoing practice.[30]

110

Charges of nostalgia or investment are out of place here, where the dispute is over whether historical change has vitiated any subversive effect of artworks. One could even conclude that it has from Buchloh's own account of the double bind quoted above.[31] Certainly it is possible that it has: consider how historical change has swept away the world that conservatives of the 18th century wished to conserve, so that now the word

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29. *Art in America*, November 1984, p. 19.

30. Cf. his paean to the specialized expertise of the critic at the tail end of the introduction to *Neo-Avant-garde and Culture Industry*, *op. cit.*

31. It is highly suggestive that Buchloh concludes his book with his essay on Weiner, who comments that the work of art need not made at all. Buchloh says that he doesn't follow Weiner here, but the placement of the essay at the end of the book does make one think.

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"conservative" means something completely different—actually two things, each completely different from the other—from what it did then. Consider also the bad faith involved in ignoring these facts, as well as the advantages of avoiding them reaped by those who claim to be "conservatives."

111

Yet Buchloh is right in chastising Bürger for trying to reduce the practices of the historic avant-gardes to one concern. The historical avant-gardes contained strands of all three of the codes identified here. Futurism, which Bürger tentatively included in his list of historic avant-gardes, wished to destroy old art only to make way for a new beauty, aiming to achieve traditional aesthetic ideals with radically new means. And it is hard to avoid Hans Richter's view that Dada was split between (to use his categories) those who wanted to make art and those who didn't.[32]

112

The judgment of history on surrealism has been clear and unequivocal: "It has been rightly pointed out, for example, that Parisian surrealism, contrary to its own program and to Benjamin's emphatic assumption, clearly remained within the bounds of autonomous art."[33] Koepnick feels confident enough to make this claim without any supporting argument or analysis. It may be premature to file an appeal from this judgment; but is it too much to ask to see the indictment?

113

Breton himself notes the ambiguity under discussion here. In the lecture "Political Position of Today's Art" from 1935, Breton points out the "most regrettable ambiguity" which allows the adjective "revolutionary" to be applied to works which are innovative formally as well as to those "which tends to define a systematic action aiming at the transformation of the world and implying the necessity of concretely attacking its real bases."[34]

114

What should count as a failure (or success) of surrealism is a complex question and outside the scope of these remarks. I am suggesting that, as

32. Hans Richter, *Dada—Art and Anti-art* (New York: McGraw-Hill, 1965). These same sort of splits occurred in Fluxus, and came out into the open when Maciunas retracted one of his manifestos when other major Fluxus figures objected on the grounds that they liked art!

33. Lutz Koepnick, *Walter Benjamin and the Aesthetics of Power, op. cit.*, p. 18.

34. Breton, *Manifestoes of Surrealism* (Minneapolis: University of Michigan Press, 1969), p. 213. To the extent that Breton here grants the good faith "nonconformist will" of the innovator, whose work is assimilated by tradition, my comments about Buchloh apply equally to Breton, due allowance being made for the decline in credibility of this good faith with the lapse of time, as well as to Breton's citation of Paul Claudel as an example—an example for which it is reasonable to assume that Breton accords no such good faith.

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surrealism went farthest in articulating an alternative—and oppositional—model of culture, its fate (this would include, since I am persuaded by Krauss and Joselit, Bataillean and Duchampian variants[35]) is of complex and cardinal importance for anyone with an interest in art, and has been woefully undertheorized.

115

To those variants can be added a "Benjaminian surrealism". It should not be forgotten that he described his arcades project, in a letter to Gershom Scholem, as "the philosophical application of surrealism."[36]

116

The discourse of "anti", although it appears to align itself with theory, is really a way of avoiding the aporias which beset art discourse as well as the theoretical work which needs to be undertaken to deal with them.

117

The goal of this paper has been to lay out the aporias faced by art and art discourse, scrupulously avoided by artists, theorists, and fans. I see no reason to think that these aporias are intrinsically or eternally unsolvable. My aim is to provoke responses and try to answer these problems. I don't like this situation any more than anyone else.

118

One objection that I foresee is that my view takes as central the high/low distinction. But the art (and theory) which they advocate questions, critiques, challenges, subverts, undermines, unmasks, undoes, transgresses, overturns, dismantles, resists, exceeds, disrupts the high/low distinction. I would send the reader back to Buchloh's account of how such attempts fail, as well as to my revision of Buchloh's account. In addition, I would note that this objection flagrantly begs the question, since according to my argument it is this "anti" discourse which is systematically ambiguous and can have any of three meanings. My question to those who wish to pursue this objection: Where is your manifesto?

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I envisage another objection as well. The well-adjusted might contend that the purpose of "anti" discourse is not to provide insight into art, any more than the description of artworks, reproduced on facing pages, which

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35. I am persuaded by Joselit that it is theoretically fruitful to explore a "Duchampian surrealism," even if our considered judgment is that Duchamp himself and his works are not ultimately surrealist.

36. Walter Benjamin, *The Correspondence of Walter Benjamin,* ed. by Gershom Scholem and Theodor W. Adorno (Chicago: University of Chicago Press, 1994), p. 505.

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fills catalogue essays. Rather, the purpose of all such discourse is to help us to experience art by slowing us down and allowing us to linger with artworks. To this objection I have no reply except to repeat everything again. Linger why?[37]

37. Many, many thanks to Joanne Waugh for arranging for me to teach a class on Surrealism, for which many of the ideas in this paper were hatched; and likewise to Tom Wren for my class on Art & Politics, which allowed me to tie up some loose ends. I'm also very grateful to Jim Wilkinson, Craig Howe, David Ingram, and the two reviewers for this journal for very helpful comments on earlier drafts.

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